

IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 156/2016

(Yavatmal Zilla Akhil Kunbi Samaj, Yavatmal and others vs. The State of Maharashtra and others)

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Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders

Court's or Judge's order

.....
Mr. Abhay Sambre, Advocate for the petitioners
Mr. Amit Balpande, Assistant Government Pleader
for Respondents

CORAM : SMT. VASANTI A.NAIK &
MRS.SWAPNA JOSHI, JJ.

DATED : 11th July, 2016

Heard.

By this Writ petition, the petitioners have challenged the impugned order, dated 18.11.2015, cancelling the approval to the appointments of the petitioners.

Mr.Abhay Sambre, the learned counsel for the petitioners states that the issue involved in this Writ Petition was also involved in Writ Petition No. 6606/2015 and this Court had, by a common judgment in the said Petition and several others, dated 17th June 2016, partly allowed the Writ Petition and quashed and set aside the impugned orders of cancellation of approval. It is stated that certain other directions were also issued against the respondent no.2-Deputy director of Education.

The learned counsel seeks a similar order in this Writ Petition also.

Shri A.M.Balpande, the learned Assistant Government Pleader appearing on behalf of the respondents, does not dispute the statement made on behalf of the petitioners. It is admitted that the issue involved in this case was also involved in the bunch of petitions, bearing Writ Petition No. 6606/2015 and others, that were decided by the common judgment dated 17th June, 2016. It is stated that an appropriate order could be passed in this Writ Petition also.

Hence, for the reasons recorded in the judgment dated 17th June 2016, in Writ Petition No.6606/2015 and others, we partly allow this Writ Petition. The impugned order is quashed and set aside. The Deputy Director of Education is directed to conduct an enquiry in the matter, to find out whether the petitioners and/or their management had acted in collusion with the Education Authority against whom an action is initiated by the State Government. The Deputy Director of Education should also find out whether surplus teachers are available for filling the vacancies in the posts that were occupied by the petitioners. The said exercise should be completed within a period of four weeks. Since the petitioners are continued in service, we permit the petitioners

to continue and direct the respondents to pay their salary for three months within one month. The Deputy Director of Education is directed to pass suitable order in the matter of rejection of approval of the petitioners after conducting the enquiry. The continuation of the petitioners in service would depend on the decision in the enquiry that would be conducted by the Deputy Director of Education. If an approval is granted by the Deputy Director of Education, the management would be free to claim the salary from the State Government. The petitioners would be free to claim the salary from the management, if the approval to their appointment is not granted.

Order accordingly. No costs.

JUDGE

JUDGE

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