

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 501 OF 2007

1. Ram s/o Gopinathrao Yedte
Age : 41 years, Occu.: Service,
R/o at Post Gokul Gondegaon,
Tq. Mahur, District – Nanded
 2. Kailash s/o Dattatraya Thakare,
Age : 32 years, Occu.: Service,
R/o at Post Gokul Gondegaon,
Tq. Mahur, District – Nanded
- ..PETITIONERS**

VERSUS

1. The State of Maharashtra
Through its Secretary,
School and Education
Department, Mantralaya,
Mumbai-32
 2. The Education Officer (Secondary)
Zilla Parishad, Nanded
 3. Shri Subhash Shikshan Sanstha
Gokul (Gondegaon)
Tq. Mahur, Dist. Nanded
Through it's Secretary,
 4. Shri Subhash Vidyalaya Gokul
(Gondegaon), Tq. Mahur,
District – Nanded
Through it's Head Master
- .. RESPONDENTS**

Mr. S.R. Kolhare, advocate for the petitioners
Mr. S.K. Tambe, A.G.P. for the respondent/State
Mr. D.A. Karnik, advocate holding for Mr.Vivek Dhage,
advocate for the applicant-intervenor

**CORAM : SUNIL P. DESHMUKH AND
SANGITRAO S. PATIL, JJ.**

DATE : 13th SEPTEMBER, 2017

ORAL JUDGMENT :

Rule. Rule made returnable forthwith and with the consent of the learned counsel for the parties, heard finally.

2. Both petitioners claim to possess requisite qualifications to hold onto the posts on which they are appointed pursuant to the Maharashtra Employees of Private School (Condition of Service) Regulation Act, 1977 and the Rules of 1981 framed thereunder.

3. Petitioners claim that pursuant to advertisement dated 13th October, 2002, published by respondents No.3 and 4, they had applied to the posts of Shikshan Sevak for being appointed in respondent No.4 – School, run by respondent No.3 – Institution. The petitioners, in pursuance of the same, were appointed as Shikshan Sevaks in their respective posts, which, according to the petitioners, are permanent and sanctioned. It is further claimed that the Education Officer (Secondary), Zilla Parishad, Nanded had also accorded approval to their appointments for a period of

three years, vide orders dated 31st December, 2012 and 23rd January, 2003, respectively. On completion of three years, their appointments were upgraded to Assistant Teachers with effect from 21st October, 2002 and proposals were forwarded to Education Officer for grant of approval to their such appointments.

4. It appears that around March, 2005, one Punjabrao Gawande had lodged a criminal complaint, on the basis of which Regular Criminal Case No. 344 of 2005 was instituted. In the circumstances, the request and the proposal for grant of approval to the petitioners' appointments as Assistant Teachers had been found difficult to be acceded to by the Education Officer (Secondary), Zilla Parishad, Nanded and he purported to refuse the same under communication dated 15th December, 2006, addressed to respondent No. 4 (Exh-B to the petition, page No.17).

5. Learned counsel for the petitioners, during the course of hearing of the matter, referred that the criminal proceedings initiated against the petitioners have ended up in their acquittal and as such, there is no impediment now for grant of approval to the appointments of the petitioners, for the reason for

which it had been earlier refused, is not subsisting. The learned counsel further refers to the fact that services of the petitioners have been protected under interim orders of this Court.

6. Having regard to aforesaid, it would be expedient that respondent No.2 considers the proposal for approval to the appointments of the petitioners afresh.

7. In view of aforesaid, the impugned communication dated 15th December, 2006 (Exh-B to the petition), issued by respondent No. 2 – Education Officer (Secondary), Zilla Parishad, Nanded stands quashed and set aside.

8. Respondent No.2 – Education Officer (Secondary), Zilla Parishad, Nanded shall go ahead and consider the proposal afresh in accordance with law and as per the relevant Rules for approval to the appointments of the petitioners, if they are eligible and shall not refuse granting of approval for the reason for which it was refused earlier. It is expected that further action by respondent No. 2 would be taken expeditiously and preferably within a period of three

months.

9. Rule is made absolute in the above terms.

10. The Writ Petition stands disposed of accordingly.

11. In view of disposal of the writ petition, civil application No. 9821 of 2007 (for intervention) and civil application No.13460 of 2013 (for early hearing of the writ petition), do not survive and stand disposed of.

[SANGITRAO S. PATIL]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

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