

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

WRIT PETITION NO. 6791 OF 2017

- | | | | |
|---------------|--|----|-------------|
| 1. | Sanjay Appasaheb Dhamane
and others | .. | Petitioners |
| Versus | | | |
| 1. | The State of Maharashtra and others | .. | Respondents |

Shri Rahul R. Karpe, Advocate for Petitioners.
 Shri A. V. Deshmukh, A.G.P. for Respondent Nos. 1 and 2.
 Shri S. T. Shelke, Advocate for the Respondent No. 3.

**WITH
WRIT PETITION NO. 8261 OF 2017**

- | | | | |
|---------------|-------------------------------------|----|-------------|
| | Devendra S/o Gopalrao Ambetkar | .. | Petitioner |
| Versus | | | |
| 1. | The State of Maharashtra and others | .. | Respondents |

Shri Sandip R. Andhale, Advocate for the Petitioner.
 Shri A. V. Deshmukh, A.G.P. for Respondent Nos. 1 to 3.
 Shri S. T. Shelke, Advocate for Respondent Nos. 4 and 5.

**CORAM : ANOOP V. MOHTA AND
SUNIL K. KOTWAL, JJ.
DATE : 28TH JUNE, 2017.**

ORAL JUDGMENT (Per Anoop V. Mohta, J.) :-

. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for parties.

2. The petitioners who are assistant primary teachers of Zilla Parishad, Ahmednagar and who are basically suffering from

Cervical Spondylitis (Mankyacha Ajar) have filed present writ petitions and challenged corrigendum dated 17.05.2017 issued by respondent No. 1, by which the State has deleted/withdrawn the disease Cervical Spondylitis from Sr. No. 8 of the Government Resolution dated 27.02.2017. That resulted in deletion of the special class of teacher Part - I, who are suffering with the said disease. These teachers thereby treated equally with other teachers for the transfer purpose.

3. This Court vide judgment dated 22.06.2017 in Writ Petition No. 6640 of 2017 in **Maharashtra Rajya Shikshak Sena, Through its Taluka President and another Vs. The State of Maharashtra and others** with other connected writ petitions has dealt with the transfer policy/resolution dated 27.02.2017 and as amended from time to time including corrigendum dated 17.05.2017 and permitted respondents to proceed on the basis of resolutions and implement the transfer policy so announced.

4. The State policy is always a domain of State Government, for various reasons. The withdrawal of unreasoned decision of this disease from the special class teacher list, just cannot be tested on a foundation that such withdrawal is unreasonable, arbitrary and/or without assigning any reasons. The Government while putting the disease in the list had taken decision on its own based upon the material so collected. The subsequent amendment, thereafter, even if, made in no way can be said to be arbitrary,

discriminatory and/or unreasonable. This in no way can be said to be violative of constitutional provisions and/or it goes to the root to the extent of declaring such action/act unsustainable and/or contrary to any provision of law.

5. We see no case is made out to interfere with said policy decision taken by the State also for the reason recorded in judgment referred to (supra).

6. This in no way read and referred that the individual petitioners are deprived of putting their case and/or representation after receipt of transfer orders to consider their grievances revolving around their individual problems based upon the disease. We have already observed that, in view of the remedy/forum available, petitioners concerned may make representation and request to pass appropriate orders, after receipt of the transfer order. Respondents are required to consider individual cases, in accordance with law, keeping in mind as already recorded, the resolutions and/or orders passed by the Court and/or decision taken by the concerned authority at appropriate time, including the grievances, if so made, revolving around the disease in question.

7. With these observations, all these petitions are disposed of. No costs.

Sd/-

[SUNIL K. KOTWAL, J.]

bsb/June 17

Sd/-

[ANOOP V. MOHTA, J.]