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

WRIT PETITION NO.7493 OF 2004

1. Neeta d/o Gangadharrao Deshmukh,
Age 34 years, Occu. Nil,
R/o Shivajinagar, Nanded.
2. Nagorao s/o Sudam Kokare,
Age 37 years, Occu. Nil,
R/o Jaibhimnagar,
Post Shivajinagar, Nanded
3. Raju s/o Baburao Mane,
Age 23 years, Occu. Nil
R/o Somesh Colony,
Vazirabad, Nanded
4. Sharad s/o Yeshwantrao Deshmukh,
Age 24 years, Occu. Nil,
R/o C/o Pratibha Niketan College,
Vazirabad, Nanded.
5. Pratibha Niketan Education Society,
Nanded, through its General
Secretary, Nanded.
6. Pratibha Niketan High School,
Nanded
7. Pradnya Niketan Girls High School,
Nanded, through its Head Mistress,
Nanded. ... PETITIONERS

VERSUS

1. The State of Maharashtra
through its Secretary,
Government of Maharashtra
Mantralaya, Mukbai - 32
(Copy to be served on
Government Pleader, High Court of
Bombay, Bench at Aurangabad)

((2))

2. The Education Officer (Secondary),
Zilla Parishad, Nanded ... RESPONDENTS

.....
Shri S.M. Kulkarni, Advocate for petitioners
Mrs. M.A. Deshpande, Addl. G.P. for State
.....

CORAM: RAVINDRA .V. GHUGE AND
SUNIL K. KOTWAL, JJ.

DATED : 23rd NOVEMBER, 2017.

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.) :

1. These petitioners are seeking a direction to the Education Department, and especially the Education Officer (Secondary), Zilla Parishad, to grant approval to the cases of the petitioners as they are working in the non-teaching categories. A further prayer is put forth that the Government Resolutions dated 6.2.2004 and 18.8.2004 be quashed and set aside.

2. Prayer clauses 21(b), (c) and (d) put forth by the petitioners read as under :

- (b) By issuing a writ of certiorari or any other appropriate writ, order or direction in the like nature, the order dated 22.4.2004 and 25.11.2004 issued by the respondent No.2, Education Officer (Secondary), Zilla Parishad, Nanded may kindly be quashed.

- (c) By issuing a writ of certiorari or any other appropriate writ, order or direction in the like nature, the Government Resolutions dated 6th of February 2004 and 18th August 2004 passed by respondent No.1 may kindly be quashed.
- (d) By issuing a writ of mandamus or any other appropriate writ, order or direction in the like nature, respondent No.2 may kindly be directed to grant approval to the petitioners.

3. Learned A.G.P. has pointed out, on the basis of the Government Resolution dated 30.7.2004 that, the earlier Government Resolution dated 6.2.2004 has already been superseded and so also, the Government Resolution dated 30.7.2004 has subsequently lost its efficacy. It is further submitted that, the State is yet to arrive at a conclusion with regard to granting permanent approvals to the services of the non-teaching categories at the school.

4. A communication dated 3.9.2004, by the Education Officer (Secondary) to the Head Master of the petitioners' school is placed on record to inform us that, temporary approval pending the result of this petition has been granted to Smt. N.G. Deshmukh, Shri R.B. Mane and Shri N.S. Kokare. The said document, (2 pages) is marked "X" for identification.

5. Learned counsel for the petitioners submits that, the fourth petitioner Shri Sharad Yeshwantrao Deshmukh is yet to receive any such approval.

6. We are informed by the petitioners that, all of them have been working pursuant to the interim orders of this Court, dated 21.7.2005 and are in employment for more than 13 years. All of them are in their mid 40s.

7. Learned counsel for the petitioners submits that, if their services are protected by virtue of the interim orders, this petition can be disposed of with a direction to the State to take an early decision with regard to the cases of these petitioners and similarly situated employees. In the alternative, he submits that, this Court may direct grant of permanent approval.

8. Learned A.G.P. submits that, since the Government is dealing with the said issue and is likely to take a decision, though the time-frame cannot be speculated by her, the cases of these petitioners could be made subject to the decision of the Government, which would, in fact, be by way of a policy with regard to such non-teaching employees. Learned counsel for the petitioners is agreeable.

9. Considering the above, this petition is partly allowed in terms of the interim order dated 21.7.2005.

10. The provisional approval granted to the petitioners under the interim orders, shall continue till the Government takes a decision with regard to such cases of the petitioners and similarly situated employees. Needless to state, the services of these petitioners shall not be dispensed with only for the reason that they are yet to receive permanent approval. This protection shall exclude cases of disciplinary action.

11. Rule is made partly absolute in these terms.

(SUNIL K. KOTWAL)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

fmp/