

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12813 OF 2016

(Babu Abhiman Bansode and others Vs. The State Of
Maharashtra Through Secretary and others)

WITH

WRIT PETITION NO.12638 OF 2016

(Balasaheb vithalrao Waghmare and another Vs. The
State of Maharashtra and others)

WITH

WRIT PETITION NO.12814 OF 2016

Maheshkumar Dattatraya Nagade and another Vs. The
State of Maharashtra and others)

WITH

WRIT PETITION NO.12815 OF 2016

(Vyankat Sopan Koli and Another Vs. The State of
Maharashtra and others)

WITH

WRIT PETITION NO.12816 OF 2016

(Suchita Kisanrao Gosavi Vs. The State of
Maharashtra and others)

Mr. Sushant B. Choudhari, Advocate for the Petitioners
in all the Writ Petitions

Mr. S.B.Yawalkar, A.G.P. for the respondent/State

Mr. P.P.More, Advocate for respondent Nos.3, 4 and 6 in
W.P.No.12813/2016, for respondent Nos.3 to 5 in
W.P.No.12638/2016, for respondent Nos.3 to 6 in
W.P.No.12814/2016 and for respondent Nos.3,5 and 6
in W.P.No.12815/2016

Mr. R.D. Raut, Advocate for respondent No.5 in
W.P.No.12813/2016

**CORAM : S.V. GANGAPURWALA AND
SANGITRAO S. PATIL, JJ.**

DATE : 11th APRIL, 2017

ORAL ORDER :

Heard.

2. Mr.Choudhari, the learned counsel for the petitioners submits that the conciliation and counseling procedure adopted by the respondents is *per se ex facie* illegal. The proper procedure is not followed. The seniority is not maintained. The persons who ought to be considered first for absorption are retained and the petitioners are asked to join. According to the learned counsel, in December-2016, the orders are issued for absorption which itself is illegal.

3. Mr. P.P.More, the learned counsel for the respondents submits that because of the absorption of para-teachers, the delay has been caused. In the process, the seniority has been maintained. It is as per the availability of the posts, the orders of absorption are issued.

4. The staffing pattern has to be considered every year, based on the strength of the students as on 30th September of each year. Petitioner No.4 – Sunil s/o Ramling Pise in Writ Petition No.12813 of 2016 is protected whereas many of the petitioners have joined at the places they are absorbed pursuant to the impugned

orders. If any orders are passed at this stage, it would be displacing many other persons. The same is not expedient.

5. Petitioner No.4 in Writ Petition No.12813 of 2016 is to retire on 30th June, 2017 i.e. in less than three months from today. He shall be retained at the place where he is presently functioning. However, the other petitioners in Writ Petition No.12813 of 2016 and the petitioners in other writ petitions who have joined at the places where they are directed to be absorbed, they will continue to function at the respective places where they are absorbed. At the time of next transfers or at the time when the next staffing pattern is to be considered and the conciliation and counseling process is to be adopted, the present petitioners except petitioner No.4 in Writ Petition No.12813 of 2016 may apply for absorption at the places of their choice as per availability of the posts and their qualification and eligibility. The respondent shall consider the said aspect on its own merits, so also the availability of the posts at those places and the petitioners' qualification and eligibility and thereafter, take

decision on its own merits with regard to absorption of the petitioners at the respective places where they will have to be absorbed.

6. With the above directions, all the writ petitions are disposed of. No costs.

[SANGITRAO S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

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