

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.2968 OF 2017

Smt. Rupali Dattatraya Sarpotdar	Petitioner
Versus	
State of Maharashtra & Ors.	Respondents

**WITH
WRIT PETITION NO.2969 OF 2017**

Mr. Sushant Vinayak Patil	Petitioner
Versus	
State of Maharashtra & Ors.	Respondents

**WITH
WRIT PETITION NO.2970 OF 2017**

Kum. Reshma Maruti Mohite	Petitioner
Versus	
State of Maharashtra & Ors.	Respondents

**WITH
WRIT PETITION NO.2971 OF 2017**

Mr. Dilipkumar Shripati Bamane	Petitioner
Versus	
State of Maharashtra & Ors.	Respondents

**WITH
WRIT PETITION NO.2972 OF 2017**

Mrs. Manisha Ravindra Raut	Petitioner
Versus	
State of Maharashtra & Ors.	Respondents

**WITH
WRIT PETITION NO.3030 OF 2017**

Mrs. Sonal Dhanaji Kesarkar	Petitioner
Versus	
State of Maharashtra & Ors.	Respondents

**WITH
WRIT PETITION NO.2091 OF 2017**

Shri. Anil Pandurang Koktare	Petitioner
Versus	
The State of Maharashtra Through The Secretary, School Edu.Dept.& Ors.	Respondents

**WITH
WRIT PETITION NO.13832 OF 2016**

Shri. Motilal Baburao Gangurde & Anr.	Petitioners
Versus	
The State of Maharashtra Through The Secretary, School Edu.Dept.& Ors.	Respondents

.....

Mr. Milan Topkar for the petitioner in WP No.2968 to 2972 of 2017.
Mr. Mandar Bagkar, i/b. Mr. N.V. Bandiwadekar for respondent Nos.4 and 5 in WP No.2968 of 2017, respondent Nos.3 and 4 in WP No.2091 of 2017, respondent Nos.4 and 5 in WP No.2969 of 2017, respondent Nos.4 and 5 in WP No.2970 of 2017, respondent Nos.4 and 5 in WP No.2971 of 2017, respondent Nos.4 and 5 in 2972 of 2017, respondent Nos.4 and 5 in WP No.3030 of 2017.

Mr. Sagar Mane for the petitioner in WP No.2091 of 2017.

Mr. Mandar Bagkar, i/b. Mr. M.V. Bandiwadekar for the petitioner in WP No.13832 of 2016.

Ms. K.R. Kulkarni, AGP for the State - Respondent Nos.1 to 3 in WP No.2968 of 2017 to 2972 of 2017 and 3030 of 2017.

Ms. K.R. Kulkarni, AGP for the State – Respondent Nos.1 and 2 in WP No.2091 of 2017 and WP No.13832 of 2016.

CORAM : PRASANNA B. VARALE, J.

DATED: 14 SEPTEMBER, 2017

P.C. :

1. The petitioners are before this Court challenging the order passed by the Education Officer (Secondary), Zillah Parishad Kolhapur, whereby the request of the petitioners for grant of their approval was turned down. It is not in dispute that these petitioners alongwith the another employee teacher, namely, Sau. Bhagyashri Salvi had approached this Court by filing Writ Petition No.10320 of 2016. It is the case of the petitioners that the petitioners were possessing requisite qualification, namely, B.Sc. and B.Ed. and the petitioner Smt. Rupali Sarpotdar was from OBC category and in response to an advertisement issued, the petitioners submitted her claim. The petitioner was subjected to an interview and was selected. An appointment order was also issued on 31.07.2013. Though, the proposal was submitted for approval of petitioner initially in the year 2014 and subsequently again in the year 2016, no decision was given. It was informed that as there was a ban on appointments in view of a Government Policy, an approval could not have been granted. The department cannot grant any approval as there was no approval from the Education Department. No approval granted by the Education Department. The petitioners left with no choice to approach this Court.

2. The Division Bench of this Court by order dated 23.09.2016 on hearing the parties though it is fit to dispose this petition at the admission stage by issuing directions to the Education Department (Secondary), Zillah Parishad Kolhapur to decide the representations or

proposals filed by the management i.e. respondent Nos.4 to 6 seeking approval. Accordingly, the Education Department on hearing the petitioners, passed the order and only on the ground that there is a large number of teachers, who are yet to be absorbed and who are declared as surplus turn down the proposal for approval.

3. Learned Counsel for the petitioners by placing a heavy reliance on the judgment of the Division Bench of this Court dated 10.07.2017 submitted that now the issue is squarely covered by the judgment of the Division Bench. Learned Counsel for the petitioners submitted that the Division Bench of this Court took into consideration all the necessary aspects, such as the impediment of the Government Resolution dated 02.05.2012, 04.09.2013, the judgment of the Division Bench in the case of *Revati Wagh & Anr. V/s. The State of Maharashtra & Anr.*, and also considering the aspect of accommodation of the surplus teachers passed the order, thereby allowing the Writ Petitions and quashing and setting aside the orders passed by the Education Officer. The Division Bench further directed the Education Officer to examine independent cases and grant approval to each of the teacher. The Division Bench for consideration of these approvals, formed three categories of cases as a guiding factor for the Education Officer. The Division Bench thus directed the Education Officer to examine independent cases and grant approval to each of the teacher, who fall in the three categories carved out by the Division Bench. The Division Bench then directed the Education Officer to pass necessary orders within a stipulated period of six weeks from the date of the order of the Division Bench.

4. Learned Counsel for the petitioners submitted that out of the six petitioners before this Court, petitioner Smt. Sonal Kesarkar in Writ Petition No.3030 of 2017 fall in the category '2' or 'B' as the appointment of the petitioner was for teaching of the subject English. In so far as the other two petitioners are concerned, namely, Mr. Sushant Vinayak Patil in Writ Petition No.2969 of 2017, Mr. Dilipkumar Shripati Bamane in Writ Petition No.2971 of 2017 and Mrs. Manisha Ravindra Raut in Writ Petition No.2972 of 2017 fall in the category 'A' as these petitioners were appointed in the year 2010 and 2011 respectively i.e. prior to the Government Resolution dated 02.05.2012. Two petitioners, namely, Smt. Rupali Dattatraya Sarpotdar in Writ Petition No.2968 of 2017 and Kum. Reshma Maruti Mohite in Writ Petition No.2970 of 2017 fall in the category 'C' as these petitioners were appointed to fulfill the backlog of the reserved category and these petitioners are in the category of OBC candidates and VJNT candidates.

5. Though, the learned Assistant Government Pleader prays time on the ground that the instructions are awaited for filing reply. Considering the judgment of the Division Bench of this Court and the factual aspects referred to above, I see no reason to await for reply of the Government, as I propose to pass the order on the line of the judgment and order of the Division Bench. The Petitions are allowed. The impugned order in the petition passed by the Education Officer is set aside. The Education Officer is directed to examine the cases of all these petitions, who claim to be falling in the categories 'A', 'B', 'C' as referred to above and grant the approval. Needless to state that after hearing the

management, the exercise be undertaken within a period of six weeks from the date of the order of this Court. Upon grant of approval, necessary steps would be taken for payment of salary to such of the teachers who were found eligible and salaries will be paid to them within a period of 12 weeks from the decision of the Education Officer.

6. As the issue involved in these petitions is an identical issues involved in the bunch of petitions, these petitions are also decided accordingly.

(PRASANNA B. VARALE, J.)