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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4878 OF 2017

(Production board dated 24/04/2017)

Shri Hemant Agatrao Jagtap and anr. ... Petitioners

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. Satish Raut for the petitioners.

Mr.S.B. Kalel, AGP for the respondent State.

**CORAM : SHANTANU KEMKAR &
B.P. COLABAWALLA, JJ.
DATED : APRIL 25, 2017.**

P.C.

Not on board. Taken on production board in view of the urgency.

2. Feeling aggrieved by order dated 05.04.2017 by which the approval to the transfer of the petitioners' from unaided school to the aided school of the same management has been rejected on the ground that there is a ban on recruitment as per the GR dated 2nd May, 2012, issued by the State of Maharashtra, the petitioners have filed this petition.

3. According to learned counsel for the petitioners, the petitioners were not being freshly recruited but they were already

working and were merely transferred from unaided school to aided school of the same management, the said G.R. dated 2nd May, 2012 is not applicable to the petitioners' case. He further submits that similar issue has already been considered and decided by various Division Benches including this Court in the case of Dattu s/o. Bhima Thorat Vs. The State of Maharashtra & Ors.¹, Mrs. Shilprekha Vinayk Joshi Vs. The State of Maharashtra & Ors.² and other connected writ petitions as also the order passed in the case of and the order passed in case of Purushottam H. Shirsekar & Ors. Vs. The State of Maharashtra & Anr.³.

4. Having considered the submissions made by learned counsel for the parties, we find that the G.R. dated 2nd May, 2012 is in regard to ban on fresh recruitments whereas approval was sought for petitioners transfer from unaided to aided school of the same management. Thus, the petitioners' cannot be termed to have been freshly recruited and, therefore, the G.R. dated 2nd May, 2012 has not applicability to the petitioners' claim for approval of their transfer.

5. In the circumstances, in view of the law laid down by the this Court in the cases of Dattu s/o. Bhima Thorat Vs. The State of

¹Writ Petition No.2960 of 2012, decided on 11th October, 2012 (Aurangabad Bench).

²Writ Petition No.11065 of 2014, decided on 14th February, 2017.

³ **Writ Petition No.4120 of 2016 decided on 28th February, 2017**

Maharashtra & Ors., Mrs. Shilprekha Vinayk Joshi Vs. The State of Maharashtra & Ors., and Purushottam H. Shirsekar & Ors. Vs. The State of Maharashtra & Anr. (Supra), we are of the view that the petitions deserve to be allowed.

6. Accordingly, the petition is allowed in terms of Prayer Clause (b). The impugned orders issued by respondent no.2 are quashed and set aside.

7. Parties to act on an authenticated copy of this order.

(B.P. COLABAWALLA, J.)

(SHANTANU KEMKAR, J.)