

Ladda(PS).

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8818 of 2017
WITH
WRIT PETITION NO. 6383 of 2017
WITH
WRIT PETITION NO. 6384 of 2017
WITH
WRIT PETITION NO. 6385 of 2017
WITH
WRIT PETITION NO. 6386 of 2017
WITH
WRIT PETITION NO. 6387 of 2017
WITH
WRIT PETITION NO. 6389 of 2017
WITH
WRIT PETITION NO. 6390 of 2017
WITH
WRIT PETITION NO. 6391 of 2017
WITH
WRIT PETITION NO. 6422 of 2017
WITH
WRIT PETITION NO. 6424 of 2017
WITH
WRIT PETITION NO. 8143 of 2017
WITH
WRIT PETITION NO. 8147 of 2017
WITH
WRIT PETITION NO. 8148 of 2017
WITH
WRIT PETITION NO. 8279 of 2017
WITH
WRIT PETITION NO. 8280 of 2017
WITH
WRIT PETITION NO. 8281 of 2017
WITH
WRIT PETITION NO. 8282 of 2017

WITH
WRIT PETITION NO. 8283 of 2017
WITH
WRIT PETITION NO. 8285 of 2017
IN
WRIT PETITION NO. 8533 of 2017
WITH
WRIT PETITION NO. 8534 of 2017
WITH
WRIT PETITION NO. 8535 of 2017
WITH
WRIT PETITION NO. 9069 of 2017
WITH
WRIT PETITION NO. 9070 of 2017
WITH
WRIT PETITION NO. 9071 of 2017
WITH
WRIT PETITION NO. 9075 of 2017
WITH
WRIT PETITION NO. 9076 of 2017
WITH
WRIT PETITION NO. 9077 of 2017
WITH
WRIT PETITION NO. 9078 of 2017
WITH
WRIT PETITION NO. 9079 of 2017
WITH
WRIT PETITION NO. 9084 of 2017
WITH
WRIT PETITION NO. 9123 of 2017
WITH
WRIT PETITION NO. 9124 of 2017
WITH
WRIT PETITION NO. 9127 of 2017
WITH
WRIT PETITION NO. 9128 of 2017
WITH
WRIT PETITION NO. 9129 of 2017
WITH
WRIT PETITION NO. 9212 of 2017

WITH
WRIT PETITION NO. 9213 of 2017
WITH
WRIT PETITION NO. 9228 of 2017
WITH
WRIT PETITION NO. 9244 of 2017
WITH
WRIT PETITION NO. 9247 of 2017
WITH
WRIT PETITION Stamp NO. 22505 of 2017
WITH
WRIT PETITION Stamp NO. 22735 of 2017
WITH
WRIT PETITION Stamp NO. 22739 of 2017

Shishir Liladhar Lele & Ors.

..Petitioners.

Vs

Satish Pradhan Dnyanasadhana

College of Arts, Commerce & Science & Ors.

..Respondents.

Mr. Mihir Desai, Senior Advocate a/with Mr. Mihir Joshi, Vinamra Kopariha, Saranga Ugalmugle and Sariputta Sarnath for the petitioner in W.P. No. 8818 of 2017.

Mr. Manoj Harit i/by Manoj Harit & Co. for the petitioner in W.P. No. 6383/2017 and connected matters on board.

Mr. Saurabh Pakale a/with Manisha Devkar i/by S.M. Katkar for petitioner in W.P. No.8143 of 2017, W.P. No. 8147 of 2017, W.P. No.8148 of 2017, W.P. No.9123 of 2017, W.P. No. 9124/2017.

Mr. N.V. Bandiwadekar a/with Mandar G. Bagkar & Sagar A Mane for petitioner in W.P. No. 8279 of 2017 to W.P. No. 8283/2017, W.P. No. 8285 of 2017, W.P. No. 8533 of 2017 to W.P. No. 8535 of 2017, W.P. No. 9075 of 2017 to W.P. No. 9079/2017, W.P. No.9084 of 2017, W.P. No. 9127 of 2017 to W.P. No.9129 of 2017, W.P. St.No.22505 of 2017, W.P. St No. 22735 of 2017, W.P. Stamp No. 22739 of 2017.

Mr. Sunil Dighe for the petitioner in W.P. No. 9069 of 2017 to W.P. No. 9071 of 2017, W.P. No.9244 of 2017 and W.P. No. 9247 of 2017.

Mr. R.S.Apte, Senior Advocate a/with Mayuresh S. Lagu for

petitioner in W.P. No. 9212 of 2017, W.P. No. 9213 of 2017, W.P. No. 9228 of 2017.

Mr. Kedar Dighe, A.G.P. for State in all matters.

Ms. Anamika Malhotra for Respondent No.4 in W.P. No. 8147 of 2017.

Mr. Rahul D. Oak a/with Mr. Joglekar for Respondent No.3 in W.P. No. 9069 of 2017 to W.P. No. 9071 of 2017, W.P. No. 9244 of 2017, W.P. No. 9247 of 2017.

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**ALONG WITH
ORIGINAL SIDE MATTERS/WRIT PETITIONS:-**

W.P. (L) No.2142 of 2017, W.P. No. 2143 of 2017, W.P.No.2145 of 2017, W.P. No.2146 of 2017, W.P. No. 1976 of 2017, WP No. 1977/2017, WP No. 1978 of 2017, WP No. 1979 of 2017, WP No. 2052 of 2017, WP No. 2090 of 2017, WP No. 2092 of 2017, W.P. No. 2093 of 2017, WP No. 2095 of 2017, WP No. 2148 of 2017, WP No. 2150 of 2017, WP No. 2151 of 2017, WP No. 2153 of 2017, WP No. 2154 of 2017, WP No. 2155 of 2017, WP No. 2156 of 2017, WP No. 2157 of 2017, W.P. No. 2158 of 2017, W.P. No. 2159 of 2017, W.P. No. 2160 of 2017, W.P. No. 2162 of 2017, W.P. No. 2163 of 2017, W.P. No. 2164 of 2017, W.P. No. 2165 of 2017, W.P. No. 2166 of 2017, W.P.No. 2168 of 2017, W.P.No. 2169 of 2017, W.P. No. 2170 of 2017, W.P.No. 2171 of 2017, W.P.No. 2172 of 2017, W.P.No.2173 of 2017, W.P. No. 2177 of 2017, W.P.No.222 of 2017, W.P.No.1988 of 2017, W.P.No.2221 of 2017, W.P. No. 297 of 2017, W.P.No.2223 of 2017 and W.P.(L) No.2226 of 2017.

Mr. Mihir Desai, Senior Advocate a/with Mr. Mihir Joshi, Vinamra Kopariha, Saranga Ugalmugle and Sariputta Sarnath, Swaraj Jadhav, Advocates for the petitioners in all the petitions.

Mr. K.S.Bapat a/with Mr. Nitin S. Dhumal, Advocate for the petitioners in WPl No.2142 of 2017, W.P. No.2143 of 2017, W.P. No.2145 of 2017, W.P. No.2146 of 2017.

Mr. Neel Helekar a/with Ms. Deepa Padwalkar for the petitioner in

WPL No.2226 of 2017.

Mr. Kedar Dighe, A.G.P. for the State in all the matters.

CORAM : ANOOP V. MOHTA AND
SMT. BHARATI H.DANGRE, JJ.
DATE : 14th August, 2017

FINAL ORDER :

1) Rule. Rule is made returnable forthwith. Heard finally by consent of parties as the common issues are involved and so also the action of common respondents, we are inclined to dispose of the present writ petitions by this common order, as agreed by all. Learned A.G.P. waives service of notice for the Respondent-State in all the matters.

2) The petitioners are working as Assistant Teacher in their respective Institutions since long, ranging from 6 to 12 years. They were appointed on vacant posts after following the due procedure of law, initially as a Shikhan Sevaks, after three years approvals were granted, and confirmed/appointed as Assistant Teachers. At both stages, the concerned respondents/officers in the respective petitions have granted approvals as required in accordance with law. All the petitioners therefore in view of this have been in service in the

respective posts.

3) The respondents, suddenly based upon a report of the Commissioner, (Education) Maharashtra State, Pune initiated the proceedings/impugned action of cancellation of approvals, already granted since long. It is stated that the said Commissioner did issue show cause notice, but without specifying the changes/reasons, for intended action.

4) The respondents Authorities, who have granted the approvals so recorded above, have recalled the order of approval by cancelling it without following the due procedure of law specifically, in spite of a Division Bench Judgment of this Court (Coram: B.R.Gavai & Riyaz I. Chagla, JJ) in Writ Petition No 10133 of 2016 (Shivanee Deshpande Vs. State of Maharashtra and others) and other connected matters, whereby it is specifically held after considering the similar situation, as under:

“By now, it is settled principle of law that unless the power of review is specifically or by necessary implication provided, the authority cannot review its own order. No doubt, if an order is obtained by exercising fraud, it would stand vitiated. However, it is not the case of the respondent-Education Officer that the petitioners have obtained their initially orders by fraudulent means. It is further observed in the said order as under if the earlier Education Officer had granted approval to the petitioners'

appointment, may be erroneously, the same cannot be made a ground to recall the same and pass contrary order, unless a case of fraud, misrepresentation or suppression is made out. Particularly, when most of the petitioners have already put in their services for 11 years, the impugned orders would amount to penalising them for no fault on their part”.

5) In view of the above, there is a force in the contention so raised by the learned Counsel appearing for the petitioners. The learned AGP therefore on instructions, conceded to the position of law and makes statement that the concerned respondents/officers/authorities shall recall the impugned order/action and related proceeding, if any dated 27th June, 2017 or such other dates as early as possible, preferably within two weeks; and they will also recall/withdraw their impugned action and/or orders of cancellation of approval in question. Further, they will grant/continue to provide all service benefits / entitlement to the petitioners or such teachers.

6) In the interest of justice and to avoid further delay and complication, we are inclined to accept the statement made the learned AGP on behalf of the respondents-authorities. In view of this, we are inclined to dispose of these petitions by keeping all contentions open of both sides.

7) It is made clear that in view of withdrawal of the

impugned action so referred to above, all the petitioners/teachers are entitled for all the requisite benefits as they are otherwise entitled in law. The concerned respondents, within a period of three weeks, will take effective steps to avoid further delay. It is made clear that once the impugned action / order is withdrawn as recorded above of the consequential benefits including their salaries need to be immediately released, if withhold for such reasons.

- 8) All the writ petitions are allowed accordingly. No costs.
- 9) The parties to act on the basis of an authenticated copy of this order.

(SMT. BHARATI H.DANGRE,J)

(ANOOP V. MOHTA,J)