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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 5693 OF 2017

Devidas Motiram Pawar & Ors. ... Petitioners
Vs.
The State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION No. 7617 OF 2017

Deepak Ananda Anandrao Jagtap & Ors. ... Petitioners
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. Sham Walve a/w Swapnil Walve, for the Petitioner.

Mr. N. P. Deshpande, Additional Govt. Pleader a/w C. P. Yadav, AGP
for Respondent No. 1 – State.

Mr. A. R. Kapadnis, for Respondent Nos. 2 & 3 in WP. 7617/2017.

CORAM : B. R. GAVAI, &
RIYAZ I. CHAGLA, JJ.

DATE : JULY 11, 2017

PC.

1. These petitions have been basically filed challenging the
Government Resolution dated 27th February, 2017 and the list prepared

by the Chief Executive Officer of the Nashik Zilla Parishad (for short “CEO”) dated 10th April, 2017, classifying difficult and non difficult areas for the purpose of transfer of primary teachers.

2. Heard Mr. Walve, learned counsel appearing on behalf of the Petitioners, Mr. A. R. Kapadnis, learned counsel appearing on behalf of the Respondent - Zilla Parishad and Mr. N. P. Deshpande, learned Additional Government Pleader appearing for the Respondent – State.

3. The learned counsel appearing for the Petitioners submits that in addition to the grounds raised in the Nashik matters, the Petitioners are also raising the ground of mala fide exercise of powers. By now, it is settled position that mala fides cannot be attributed to the offices. For filing the petition on the basis of allegations of mala fides, it is necessary for the Petitioners to implead the persons against whom mala fides are attributed in their personal capacity and make specific averments with regard to the same. Neither the Chief Executive Officer has been made as party respondent in his personal capacity nor are there any personal allegations made against him. In that view of the matter, it will not be possible for us to entertain the challenge on

the ground of mala fide exercise of powers.

4. Learned counsel Mr. Walve submits that when 2014 Government Resolution was made applicable in case of all group “C” employees, the impugned Government Resolution which applies to only the teachers is discriminatory in nature.

5. Insofar as contention of learned counsel Mr. Walve that the State has framed policy only for teachers is concerned, undisputedly, the State can always frame different set of policies for different set of employees.

6. Insofar as other grounds are concerned, the same are urged by the learned counsel Mr. Pakale in the earlier bunch of petitions in lead petition being Writ Petition No. 5409 of 2017. For the reasons recorded while dismissing the said bunch of petitions and the additional reasons recorded hereinabove, both the petitions are dismissed.

7. It is made clear that since the Petitioners have approached in wholesale petitions challenging the entire Government Resolution and the entire list, the same would not come in the way of the

individual petitioners if they have individual grievance.

8. At this stage, the learned counsel appearing on behalf of the Petitioners seeks extension of interim protection granted by the Vacation Bench of this Court by an order dated 26th May, 2017. The learned counsel appearing on behalf of Zilla Parishad and the learned Additional Government Pleader have vehemently opposed this request. We find that on account of status-quo granted by this Court, the entire process of transfer was stalled, which has indirectly an adverse effect on the functioning of the entire Zilla Parishad schools in the entire district. The prayer for extension of interim protection is therefore, rejected.

Sd/-
[RIYAZ I. CHAGLA, J.]

Sd/-
[B. R. GAVAI, J.]

Vinayak Halemth