

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6752 OF 2006

Shri Pawar Anandrao Dhondiram and ors. .. Petitioners

Vs.

State of Maharashtra and ors. .. Respondents

Mr.N.V.Bandiwadekar, for the Petitioners.

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

Mr.S.A.Ghaisas, for Respondent No.3.

**CORAM : A.A.SAYED &
M.S.KARNIK, JJ.**

23rd JUNE, 2017

P.C. :

1. These seven petitioners are the Assistant Teachers who were working in the secondary school run by respondent No.3 – Management. The petitioners were initially appointed in non grant-in-aid schools or partial grant-in-aid schools of the respondent No.3-Management and their appointments were approved by the Education Officer. The petitioners were thereafter transferred from non grant-in-aid schools or partial grant-in-aid school to 100% grant-in-aid schools run by respondent No.3-Management sometime between the years

2003 to 2005.

2. The petitioners are impugning the action of the Education Officer in withholding approvals of the petitioners as Assistant Teachers. It is contended on behalf of the respondents that on transfer from unaided school to aided school, the petitioners ought to be treated as 'Shikshan Sevak' and not 'Assistant Teachers' for a period 3 years.

3. The issue raised in the Petition is squarely covered by the three judgments of the Division Benches of this Court which are as under:

- i) Mrs.Shilprekha Vinayak Joshi Vs. The State of Maharashtra dated 14/02/2017 in Writ Petition No. 11065 of 2014 and other companion matters;
- ii) Dattu s/o Bhima Thorat Vs. The State of Maharashtra and ors. dated 11/10/2012 in Writ Petition No. 2960 of 2012;
- iii) Ms.Sandhya Laxman Ghosalkar Vs. State of Maharashtra dated 12/09/2012 in Writ Petition No. 5258 of 2012 and other companion matters.

It was held in the aforesaid judgments that on transfer of the Assistant Teachers from unaided to aided school/section of school, the said teachers would have to be continued as Assistant Teachers and not as Shikshan Sevak. The present Petition was admitted on 13/03/2007 and the petitioners have been continued in service since. The petitioners, after their transfer, were as a matter of fact paid salary as Assistant Teachers upto January 2006.

4. In the light of the above, the Petition is disposed of by passing the following order :

ORDER

- i) The respondents Nos. 1 & 2 are directed to accord approval to the petitioners on the post of the Assistant Teachers and they be paid monetary benefits including arrears thereof as Assistant Teachers from the date they have been transferred. The same be done expeditiously and in any event within 3 months from today.
- ii) Rule is made absolute in the aforesaid terms.

(M.S.KARNIK, J.)

(A.A.SAYED, J.)