

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

WRIT PETITION NO. 8220 OF 2015

Shri. Shivaji Shikshan Prasarak Mandal Saswad V/S The State Of Maharashtra Through The Secretary And Ors	Petitioners Respondents
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**WITH
WRIT PETITION NO. 8776 OF 2015**

Gourabai Shikshan Sanstha And Anr. . V/S The State Of Maharashtra Through The Secretary, Dept. Of Edu. And Sports And Ors.	...Petitioners Respondents
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**WITH
WRIT PETITION NO. 8221 OF 2015**

Shri. Shivaji Shikshan Prasarak Mandal Saswad V/S The State Of Maharashtra Through The Secretary And Ors	Petitioners Respondents
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**WITH
WRIT PETITION NO. 8222 OF 2015**

Yashwant Shikshan Prasarak Mandal, Kharade Through Its Secretary Shri. Dilip Shinde And Anr V/S The State Of Maharashtra Through The Secretary And Ors	Petitioners Respondents
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**WITH
WRIT PETITION NO. 8223 OF 2015**

Junnar Taluka Shikshan Mandal And Anr	Petitioners
V/S	
The State Of Maharashtra Through The	
Secretary And Ors	Respondents

**WITH
WRIT PETITION NO. 8224 OF 2015**

Yashwant Shikshan Prasarak Mandal, Kharade	
Through Its Secretary Shri. Dilip Shinde And	
Anr.	...Petitioners
V/S	
The State Of Maharashtra Through The	
Secretary And Ors	Respondents

**WITH
WRIT PETITION NO. 8225 OF 2015**

Janseva Shikshan Sanstha, Thergaon-saidapur	
Through Its Secretary Shri. Mahadev Alwekar	
And Anr	Petitioners
V/S	
The State Of Maharashtra Through The	
Secretary And Ors	Respondents

**WITH
WRIT PETITION NO. 8777 OF 2015**

Panchshil Shikshan Sanstha, Vasagade And Anr. .	...Petitioners
V/S	
The State Of Maharashtra Through The	
Secretary, Dept. Of Edu. And Sports	
And Ors.	Respondents

**WITH
WRIT PETITION NO. 8783 OF 2015**

Rural Education Society And Anr. . V/S The State Of Maharashtra Through The Secretary, Dept. Of Edu. And Sports And Ors.	...Petitioners Respondents
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**WITH
WRIT PETITION NO. 8784 OF 2015**

Kakad Macchindra Maruti And Ors. . V/S The State Of Maharashtra Through The Secretary, Dept. Of Edu. And Sports And Ors.	...Petitioners Respondents
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**WITH
WRIT PETITION NO. 8785 OF 2015**

Navnagar Shikshan Mandal And Anr. . V/S The State Of Maharashtra Through The Secretary, Dept. Of Education And Sports And Ors.	...Petitioners Respondents
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**WITH
WRIT PETITION NO. 8798 OF 2015**

Navbharat Shikshan Sanstha And Anr. .. V/S The State Of Maharashtra Through The Secretary, Dept. Of Education And Sports And Ors.	..Petitioners Respondents
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**WITH
WRIT PETITION NO. 8800 OF 2015**

Swami Vivekanand Shikshan Sanstha, Kashti
And Anr.Petitioners
V/S

The State Of Maharashtra Through The
Secretary, Dept. Of Education And
Sports And Ors.Respondents

**WITH
WRIT PETITION NO. 8801 OF 2015**

Shri. Sant Gadgebaba Shikshan Sanstha And
Anr.Petitioners
V/S

The State Of Maharashtra Through The
Secretary, Dept. Of Education And Sports And
Ors.Respondents

**WITH
WRIT PETITION NO. 8778 OF 2015**

Parampujya Gagangiri Maharaj Education
Society, Kharpud And Anr.Petitioners
V/S

The State Of Maharashtra Through The
Secretary, Dept. Of Education And Sports And
Ors.Respondents

**WITH
WRIT PETITION NO. 8779 OF 2015**

Shri. Sant Shiromani Sawata Mali Shikshan
Prasarak Mandal And Anr.Petitioners
V/S

The State Of Maharashtra Through The
Secretary, Dept. Of Edu. And Sports
And Ors.Respondents

**WITH
WRIT PETITION NO. 8789 OF 2015**

Kisanrrao More Education Society And Anr . V/S The State Of Maharashtra Through The Secretary And Ors	..Petitioners Respondents
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**WITH
WRIT PETITION NO. 8781 OF 2015**

Mauniraj Adiwasi Vikas Seva Sanstha And Anr. V/S The State Of Maharashtra Through The Secretary, Dept. Of Edu. And Sports And Ors.	Petitioners Respondents
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**WITH
WRIT PETITION NO. 8782 OF 2015**

Sadashiv Maholkar Shikshan Sanstha And Anr. . V/S The State Of Maharashtra Through The Secretary, Dept. Of Edu. And Sports And Ors.	Petitioners Respondents
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**WITH
WRIT PETITION NO. 8780 OF 2015**

Gramvikas Shikshan Sanstha And Anr. V/S The State Of Maharashtra Through The Secretary, Dept. Of Edu. And Sports And Ors.	...Petitioners Respondents
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**WITH
WRIT PETITION NO. 8802 OF 2015**

Samaj Vikas Sanstha, Rashin And Anr. . V/S	...Petitioners
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The State Of Maharashtra Through The
Secretary, Dept. Of Education And
Sports And Ors.

....Respondents

**WITH
WRIT PETITION NO. 8792 OF 2015**

Rashtriya Samaj Seva Shikshan Sanstha Through
Its Vice President, Miss Neeta Thorwe
And Anr

....Petitioners

V/S

The State Of Maharashtra Through The
Secretary And Ors

....Respondents

**WITH
WRIT PETITION NO. 8794 OF 2015**

Swami Vivekanand Bahuuddeshiya Shikshan
Prasarak Sanstha, Sanpule And Anr

....Petitioners

V/S

The State Of Maharashtra Through The
Secretary And Ors

....Respondent

**WITH
WRIT PETITION NO. 8797 OF 2015**

Samata Shikshan Prasarak Mandal And Anr

....Petitioners

V/S

The State Of Maharashtra Through The
Secretary And Ors

....Respondents

**WITH
WRIT PETITION NO. 8805 OF 2015**

Nav Maharashtra Shikshan Mandal And Anr

....Petitioners

V/S

The State Of Maharashtra Through The
Secretary And Ors

....Respondents

**WITH
WRIT PETITION NO. 8804 OF 2015**

Maharashtra Mahila Udyam Trust And Anr .	...Petitioners
V/S	
The State Of Maharashtra Through The	
Secretary And Ors	Respondents

**WITH
WRIT PETITION NO. 8799 OF 2015**

Rural Education Society, Mirajgaon And Anr .	...Petitioners
V/S	
The State Of Maharashtra Through The	
Secretary And Ors	Respondents

**WITH
WRIT PETITION NO. 8803 OF 2015**

Radhey Shikshan Vikas Mandal And Anr .	...Petitioners
V/S	
The State Of Maharashtra Through The	
Secretary And Ors	Respondents

**WITH
WRIT PETITION NO. 8775 OF 2015**

Jay Bhavani Pratishthan And Anr. .	...Petitioners
V/S	
The State Of Maharashtra Through The	
Secretary, Dept. Of Education And	
Sports And Ors.	Respondents

**WITH
WRIT PETITION NO. 8786 OF 2015**

Swami Vivekanand Shikshan Sanstha, Kashti	
And Anr.	Petitioners
V/S	

The State Of Maharashtra Through The
Secretary, Dept. Of Education And
Sports And Ors.

....Respondents

**WITH
WRIT PETITION NO. 8959 OF 2015**

Shri. Navale Sunil Eknath And Ors
V/S

....Petitioners

The State Of Maharashtra Through The
Secretary And Ors.

....Respondents

**WITH
WRIT PETITION NO. 8957 OF 2015**

Shirgonda Taluka Gramin Vikas Shikshan
Sanstha, Kashti And Anr.
V/S

....Petitioners

The State Of Maharashtra Through The
Secretary, Dept. Of Education And Sports And
Ors.

....Respondents

**WITH
WRIT PETITION NO. 8958 OF 2015**

Shri. Gangeshwar Vidyaprasarak Sanstha And
Anr
V/S

....Petitioners

The State Of Maharashtra Through The
Secretary And Ors.

....Respondents

**WITH
WRIT PETITION NO. 9094 OF 2015**

Rajshri Ahilyabai Holkar Education Institution
And Anr.
V/S

....Petitioners

The State Of Maharashtra Through The
Secretary, Dept. Of Education And

Sports And Ors.

....Respondents

**WITH
WRIT PETITION NO. 9095 OF 2015**

Karmaveer Bhaurao Patil Shikshan Sanstha,
Sangamner, Akole And Anr
V/S

....Petitioners

The State Of Maharashtra Through The
Secretary And Ors

....Respondents

**WITH
WRIT PETITION NO. 9096 OF 2015**

Shivshail Pratisthan Ahemadnagar And Anr
V/S

....Petitioners

The State Of Maharashtra Through The
Secretary And Ors

....Respondents

**WITH
WRIT PETITION NO. 9097 OF 2015**

Krantisurya Mahatma Phule Education Society
And Anr
V/S

....Petitioners

The State Of Maharashtra Through The
Secretary And Ors

....Respondents

**WITH
WRIT PETITION NO. 991 OF 2016**

Dnyandeep Shikshan Prasarak Mandal And Anr. .
V/S

...Petitioners

The State Of Maharashtra Through The
Secretary, Dept. Of Education And Sports And
Ors.

....Respondents

**WITH
WRIT PETITION NO. 1264 OF 2016**

Sahyadri Shikshan Prasarak Mandal And Anr.Petitioners
V/S

The State Of Maharashtra Through The
Secretary, Dept. Of Education And
Sports And Ors.Respondents

**WITH
WRIT PETITION NO. 11757 OF 2015**

Jogeshwari Gramvikas Shikshan Sanstha And
Anr.Petitioners
V/S

The State Of Maharashtra Through The
Secretary, Dept. Of Educ. And Sports
And Ors.Respondents

Mr. Suresh S. Pakale, with Mr. Shankar M. Katkar, Adv. for Petitioners
in above Petitions.

Mr. R.S. Apte, Spl. Counsel with Mr. C.P. Yadav, AGP, for Respondents
Nos. 1 to 5 in all above Petitions.

**CORAM : B.R. GAVAI AND
RIYAZ I. CHAGLA, JJ.
DATE : 22 JUNE 2017.**

J U D G M E N T :- (PER B.R. GAVAI, J.)

1. Rule. Rule made returnable forthwith. Heard by consent.

2. It is the contention of Mr. Apte, learned Senior Counsel for
the Respondent that the facts of the present case are identical with the

facts in Writ Petition No. 8961 of 2015, which is decided by this Court along with companion matters on 7th June 2017. However, Mr. Pakale, learned counsel for the Petitioner vehemently disputes this position. He submits that though the Petition also arises out of the Government Resolution (GR) dated 15th November 2011, the facts of the present Petitions are different. Shri Pakale submits that the Petitioners herein being aggrieved by non granting in aid had approached this Court by way of Writ Petition No. 8478 of 2013 along with companion Writ Petitions, said Petitions were decided by this Court on 16th July 2014. He further submitted that, however, the State Government filed an application for recall of the said order by way of Civil Application No. 2367 of 2014 along with companion matters. The learned counsel submits that in the said Civil Application, this Court had directed the State Government to issue show cause notice to the Petitioners to seek the explanation as to why they were not entitled to grant-in-aid. He further submits vide 1st January 2015 had held that merely because the Petitioners had not been followed reservation policy could not be a ground for dis-entitling the Petitioners from grant-in-aid. The learned counsel submits that acting upon the said order passed by the Division Bench,

the State in fact has issued show cause notices to the Petitioners. However without supporting material on the basis of which the action was proposed. The Petitioners have been held to be ineligible.

3. Various matters arising out of very the same GR dated 15th November 2011 had come up for consideration before us and we have decided the bunch of Petitions being Writ Petition No. 8961 of 2015 along with the companion Petitions vide order and judgment dated 7th June 2017. In the said judgment we have categorically held that the order passed by the Division Bench dated 7th January 2015 was *per incurium* inasmuch as the judgment which delivered by the Division Bench dated 7th June 2015 had not noticed the judgment and order passed by the earlier Division Bench in Writ Petition No. 7333 of 2013 decided by this Court on 17th September 2013. It was also held by this Court that the reliance placed on the Division Bench in its order dated 7th January 2015, on the observations of the Apex Court in the case of ***Ashok Kumar Vs. Union of India***¹, was also not justified inasmuch as the observations relied upon by the Division Bench in the case of ***Ashok Kumar (Supra)*** were specifically

1 (2008) 6 SCC 1

overruled by the constitution bench in the case of *Pramati Educational and Cultural Trust (Registered) Vs. Union of India*¹, on 6th May 2014.

4. It could thus be clearly seen that in view of aforesaid, it is now a settled position that the policy of reservation is basic requirement even for making an application for assessment to be admitted in grant in aid. However, from the perusal of the impugned order it does not appear that the Petitioners have been held to be ineligible for grant in aid only on the ground of not following reservation policy. The order vide they have ineligible only shows that they have obtained marks less than requirement. No reasons as to why the earlier committee though found that they were possessing more marks and as to why in the fresh assessment they are given lesser marks are given in the impugned order. Similarly, even the show cause notice which was issued to them also states that the Petitioners should show compliance. We may state that the earlier assessment committee itself found that the Petitioners were possessing more the requisite marks. If that be so it was for the State to point out deficiencies to the

¹ (2014) 8 SCC 1

notice of the Petitioners, so that the Petitioners could have replied to the same.

5. Though Mr. Pakale learned counsel for the Petitioners has cited number of judgments of the Apex Court to show as to why violations of principal of natural justice, we do not find that it is necessary to refer to them in as much as the law is very much settled.

6. It is well settled that a party is required to put to notice the adverse material which is sought to be used against it. It is also well settled that an adverse orders affecting rights of the parties must contains reasons in support of the order passed.

7. Though Mr. Pakale, learned counsel for the Petitioner has cited number of judgments to canvass his submission with regard to breach of principles of natural justice, we do not find that it is necessary to report also. In that view of the matter we find that impugned orders are liable to be quashed and set aside on the short ground that they are passed in breach of principles of natural justice. It is further find that by a wholesale order without considering the

individual cases of the Petitioner, Petitioners have been held ineligible.

8. In that view of the matter, Rule is made absolute in the following terms:

1. The impugned government resolution dated 15th November 2011 is quashed and set aside.
2. The matter is remitted back to the authority with a direction to give individual show cause notices to the Petitioners.
3. After issuance of show cause notice and after giving sufficient opportunity of hearing to the each of the Petitioners, the Respondent authority shall pass individual orders in case of individual Petitions.
4. No order as to costs.

(RIYAZ I. CHAGLA J.)

(B.R. GAVAI J.)