

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12275 OF 2016

Sanjay Sarangdhar Gaikwad	...Petitioner
vs.	
The State of Maharashtra and Others	...Respondents

WITH
WRIT PETITION NO.11409 OF 2016

Vijaya Namdeo Gaikwad	...Petitioner
vs.	
The State of Maharashtra and Others	...Respondents

WITH
WRIT PETITION NO.11410 OF 2016

Pravinkumar Tukaram Chavan	...Petitioner
vs.	
The State of Maharashtra and Others	...Respondents

WITH
WRIT PETITION NO.11412 OF 2016

Amol Raosaheb Patil	...Petitioner
vs.	
The State of Maharashtra and Others	...Respondents

WITH
WRIT PETITION NO.11413 OF 2016

Prakash Kashinath Patil	...Petitioner
vs.	
The State of Maharashtra and Others	...Respondents

WITH
WRIT PETITION NO.11419 OF 2016

Suresh Vyankat Sawant ...Petitioner
vs.
The State of Maharashtra and Others ...Respondents

**WITH
WRIT PETITION NO.11421 OF 2016**

Sharada Dhondiram Patil ...Petitioner
vs.
The State of Maharashtra and Others ...Respondents

**WITH
WRIT PETITION NO.12285 OF 2016**

Somnath Sabaji Waditake ...Petitioner
vs.
The State of Maharashtra and Others ...Respondents

**WITH
WRIT PETITION NO.12299 OF 2016**

Ajay Nandu Hole ...Petitioner
vs.
The State of Maharashtra and Others ...Respondents

**WITH
WRIT PETITION NO.12386 OF 2016**

Vinod Bhausahab Bolij ...Petitioner
vs.
The State of Maharashtra and Others ...Respondents

**WITH
WRIT PETITION NO.12453 OF 2016**

Ratan Ananda Tadakhe ...Petitioner
vs.
The State of Maharashtra and Others ...Respondents

Mr. N.V. Bandiwadekar a/w. Mr. S.A. Mane and Mr. M.G. Bagkar,
for the Petitioners.

Mr. S.B. Kalel, AGP for the Respondents-State.

Mr. Milind Deshmukh, for Respondent No. 3.

**CORAM : SHANTANU S. KEMKAR &
B.P. COLABAWALLA, JJ.**

**DATE : APRIL 19, 2017
(Balance Production Board Dt.18/4/2017)**

P.C.:

. Parties through their counsel.

2. According to the Petitioners, they are working as a Part Time Assistant Teachers/Shikshan Sevaks in the Junior College of Respondent No. 3. According to the Petitioners, they are entitled for being appointed as Full Time Shikshan Sevak/ Assistant Teacher in view of the Government Resolution dated 31st January, 2001 and 10th June, 2005. According to the Petitioners, without any justification, the Respondent No. 3 is not making the appointments of the Petitioners as Full Time Shikshan Sevak/ Assistant Teacher.

3. The Respondent No. 3 has filed reply and stated that the Government Resolutions dated 31st January, 2001 and 10th June, 2005

are not applicable to the Petitioners as the Petitioners are not fulfilling the terms and conditions more particularly Clause 3 and 9 of the said Resolutions, respectively.

4. In regard to the Government Resolution dated 31st January, 2001 we find that the Division Bench of this Court in various Writ Petitions including **Writ Petition No. 9398 of 2012** in the case of **Uddhav Trimbak Umbare vs. State of Maharashtra and Ors.** **decided on 1st February, 2013** has held that the Government Resolution dated 31st January, 2001 is applicable to the teachers duly appointed and who were in the pay scale granted by the Government in the year 1999-2000. As regards the Clause 3 of the Government Resolution dated 31st January, 2001, it deals with separate class of teachers who were duly appointed in the year 1999-2000 and in the pay scale approved by the Government. It has been held in the said judgment that it protects the pay scale of such teachers upon introduction of the Shikshan Sevak Scheme which came into effect from 13th October, 2000. It is further observed that the case of the Petitioner of the said Writ Petition does not come under Clause 3 as he is appointed as a part time approved teacher in the year 2005 and

therefore his case is covered by Clause 1 of the Government Resolution dated 31st January, 2001.

5. The learned counsel for the Petitioners submits that, the case of the Petitioners is fully covered by the judgment in the case of Uddhav Trimbak Umbare (supra). He also submits that the above mentioned judgment relates to Respondent No. 3 itself.

6. The Respondents have filed reply and stated as under:

3. The Government Resolution dated 31st January, 2001 annexed to the Petition is not applicable to the present Petition as per Clause 3 of the said Government Resolution. The said Government Resolution is applicable to the Teachers duly appointed by Institution and who were in pay scale granted by Government in the year 1999-2000. I say that in the year 2007-2008 the Petitioner was appointed on lump sum payment and was not duly appointed in the pay scale approved by the Government. I say that during 2009-2012 the post where the Petitioner was appointed was of temporary nature. Furthermore the Petitioner has not completed 6 years as part time Shikshan Sevak.

4. I say that Government Circular dated 10th June, 2005 is also not applicable to the Petitioner. As per Clause 9 of the said circular the teacher must fulfilled the terms and conditions for the regular appointment however as the Petitioner is not fulfilled the condition that the teacher must be duly appointed by the Institution in pay scale granted/approved by the Government. As the Petitioner is not selected and/or appointed by the duly constituted selection committee,

said circular is not applicable to the Petitioner.”

7. The learned counsel for the Petitioners submit that the reply is vague and it does not deal with the factual aspects of the matter.

8. Keeping in view the orders passed by this Court in the case of **Uddhav Trimbak Umbare** (supra) and having gone through the aforesaid Government Resolution, we are inclined to dispose of all the Petitions by directing Respondent No. 3 to examine the Petitioners' claim in the light of observations made by the Division Bench in the case of **Uddhav Trimbak Umbare** (supra) and pass a speaking order in regard to the Petitioners' claim for treating them as Full Time Assistant Teachers/Shikshan Sevaks.

9. Let the decision as aforesaid be taken by Respondent No. 3 and in case the Petitioners are found eligible, the proposal be forwarded to Respondent No. 2. The decision as aforesaid be taken within two months from the date of receipt of copy of this order.

10. The status-quo as it exists today in respect to the employment of the Petitioners shall be maintained by Respondent No. 3 till the decision as aforesaid is taken.

11. The Petitions are disposed of as such.

(B.P. COLABAWALLA, J.)

(SHANTANU S. KEMKAR, J.)