

Ladda(PS).

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

WRIT PETITION NO. 9880 of 2017

Bhandare Sharad Subhash	..	Petitioner.
Vs		
State of Maharashtra & ors	..	..Respondents.

WITH

WRIT PETITION NO. 9883 of 2017

Sandhya Dhondiram Jadhav	..	Petitioner.
Vs		
State of Maharashtra & ors	..	..Respondents.

WITH

WRIT PETITION NO. 9882 of 2017

Misal Gajanan Vishwanath	..	Petitioner.
Vs		
State of Maharashtra & ors	..	..Respondents.

WITH

WRIT PETITION NO. 9881 of 2017

Smt. Chavan Vaishali Raghunath	..	..Petitioner.
Vs'		
State of Maharashtra & ors	..	..Respondents.

WITH

WRIT PETITION NO. 9884 of 2017

Sarfaraj Shernawab Devale	..	..Petitioner
Vs		
State of Maharashtra & ors	..	..Respondents.

WITH
WRIT PETITION NO. 10147 of 2017

Vinod Sarjerao KamblePetitioner
Vs
State of Maharashtra & orsRespondents.

WITH
WRIT PETITION NO. 10148 of 2017

Jadhav Shashikant UmakantPetitioner
Vs
State of Maharashtra & orsRespondents.

Ms. Manisha Devkar, i/by Mr. Shankar M. Katkar, Advocate for the petitioners.

Mr. C.P. Yadav, A.G.P. for the State in all matters.

CORAM : ANOOP V. MOHTA AND
SMT. BHARATI H.DANGRE, JJ.
DATE : 11th September, 2017

FINAL ORDER :

1) Rule. Rule is made returnable forthwith. Heard finally by consent of parties. As the common issues are involved in all these writ petitions, we are inclined to dispose of the present writ petitions by this common order, as agreed by the Counsel for respective parties. 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 and after three years approvals were granted, and they were confirmed 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 charges/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

(Shivaneesh 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 1st August, 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 on 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 six weeks, will take effective steps to release all the benefits in favour of the petitioners. 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 withheld for some 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)