

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

CIVIL WRIT PETITION NO.11187 OF 2014

Ganesh Phoolchand Rathod and ors. ... Petitioners

V/s.

State of Maharashtra through the
Secretary, Social Welfare Department,
Mantralaya, Mumbai and ors. ... Respondents

Mr.Uday P. Warunjikar with Mr. Siddharth Pilankar, Advocate for
the Petitioners.

Mr.N.C.Walimbe, AGP for Respondent No.1.

Mr.J.G.Reddy (Aradwad), Advocate for Respondent Nos. 3 to 7.

**CORAM : ANOOP V. MOHTA AND
RAVINDRA V. GHUGE, JJ.**

DATE : 10 APRIL 2017.

ORDER :

1. We have heard the learned counsel for the Petitioners and the learned AGP on behalf of the Respondent No.1. We have gone through the Petition-paperbook with their assistance as well as the order of this Court dated 26th October, 2016, in Writ Petition No. 9256 of 2016 and Writ Petition No. 5289 of 2016 with connected similar matters as well as the recent Government Resolution dated 1st April, 2016 and 17th October, 2016.

2. The Petitioners have putforth a substantive prayer in terms of prayer clause (a) below paragraph No. 17 in the Petition, which reads as under :

“Be pleased Call for the record and proceedings of the letter dated 15.3.2013 and after going through the same and after satisfying the legality validity and propriety of the same be pleased to quash and set aside the condition of not to pay the backwages by writ of certiorari or writ in the nature of certiorari or any other writ, order and direction.”

3. In identical set of facts, considering the Government Resolution dated 1st April, 2016, this Court by its order dated 26th October, 2016 referred to above has observed as under:

“The Petitioners in these writ petitions claiming to be the employees of Primary Ashram School are before us contending that they are not paid their salaries since they are not allowed to discharge their duties on the ground of being surplus teacher. The impugned Government Resolution issued on 1st April, 2016 is under challenge.

In response to the query by this Court, the State Government has come out with a Notification dated 17th October, 2016 wherein they have taken a decision to continue to pay the salaries of these surplus teachers till they are placed in a suitable position as and when vacancy arises or identified.

In the light of the above adjudication of the matter at the level of the department itself, we

find no good reason to keep the matters pending.
Accordingly the writ petitions are disposed of.”

4. Considering the submissions of the learned Advocates and upon going through the Government Resolution dated 17th October, 2016 as well as the circular dated 18th October, 2016, we find that the grievances of the Petitioners have been redressed. All these Petitioners who are rendered surplus, stand covered in the light of Government Resolution dated 17th October, 2016 and the circular dated 18th October, 2016. The learned AGP confirms the said position.

5. In the light of the above, this Petition is partly allowed and the condition No.1 imposed upon the Petitioners by impugned communication dated 15th March, 2014 is set aside and would lose its efficacy considering the Government Resolution dated 17th October, 2016 and circular dated 18th October, 2016.

6. The Respondent is directed to scrutinize the case of the Petitioners in the light of the Government Resolution dated 17th October, 2016 and circular dated 18th October, 2016 and initiate appropriate steps in terms of prayer clause (a) within a period of eight weeks from today.

(RAVINDRA V. GHUGE,J.)

(ANOOP V.MOHTA,J.)

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