

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**REVIEW PETITION (L) No.43 of 2017
IN
WRIT PETITION NO.548 OF 2013
AND
WRIT PETITION NO.548 OF 2013**

Dayanand Vedic Vidhyalaya	..Petitioner
Versus	
The State of Maharashtra and others	..Respondents

**REVIEW PETITION (L) NO.42 OF 2017
IN
WRIT PETITION NO.577 OF 2013
AND
WRIT PETITION NO.577 OF 2013**

Hakim R. Singh and others	..Petitioners
Versus	
The State of Maharashtra and others	..Respondents

Mr. Surel Shah a/w Mr. Rupesh R. Lanjekar for the Petitioners in both the Review Petitions.

Mr. Himanshu Takke, AGP for the Respondent Nos.1, 2 and 6 – State in both the Review Petitions.

**CORAM : B. R. GAVAI &
RIYAZ I. CHAGLA, JJ.
DATE : 24th NOVEMBER, 2017**

PC.

1] For the reasons stated therein, the Review Petitions are allowed. The order dated 28th June 2017 is recalled. The Writ Petitions are taken up for hearing.

2] Heard Mr. Surel Shah the learned counsel for the Petitioners.

3] The Petitioners challenge the order dated 7th February 2013, thereby finding that the Respondent Nos.3 to 5 are entitled to be absorbed on various posts in the school run by the Petitioner – Management.

4] Mr. Surel Shah learned counsel appearing on behalf of the Petitioners submits that the Deputy Director has totally travelled beyond his jurisdiction. He submits that he has erroneously found that aforesaid Respondents to be eligible against the posts mentioned in the order.

5] It will be relevant to note that the aforesaid Respondents had approached this Court by filing Writ Petition No.2259 of 2000 along with two other Petitions claiming for grant of approval for their appointments for various posts. It appears that the matter reached upto Hon'ble Supreme Court and Hon'ble Supreme Court vide order dated 25th October 2007 had remanded the matter to this Court. The Division Bench of this Court vide order dated 7th April 2010, after considering the rival submissions passed the following order :-

“11. Respondent No.1 to consider the case of the present three petitioners as to whether they were appointed after following due procedure and according to law and against

clear vacancies. If after hearing the petitioners and perusing the records produced by the Management, the Education Officer comes to the conclusion that the appointment of the petitioners were against clear vacancies and by following due procedure then to grant approval to the appointments without going into the aspect of the legality of the Committee, more so considering that these three teachers have been working since the year 1998 and have been paid salaries of the post of teachers until the order of this Court dated 25th April, 2008. The respondents are further directed to make payment to the teachers from the date their salaries are stopped and till such time as the decision by the Education Officer.

12. The decision be communicated to each of the petitioner and the same not to be acted upon for a period of two months from the date of the communication of the order to the said teachers, if it be adverse. If the appointments are held to be against clear vacancies, to give the petitioners all benefits, which an approved teacher is entitled to.”

6] It appears that initially the Education Officer had rejected the case of the said Respondents. As such they approached to this Court by filing Writ Petition No.2475 of 2010. This Court vide order dated 24th February 2012 directed the matter to be reconsidered by the Deputy Director of Education. The Deputy Director by the impugned order has found the said Respondents to be eligible/absorbed on various posts from the dates mentioned in the order.

7] We see that the Deputy Director has given sound and elaborate reasons in the order, which he has passed. The said order does

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not suffer from any perversity or impossibility to warrant interference in the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The Writ Petitions are therefore rejected.

[RIYAZ I. CHAGLA, J.]

[B. R. GAVAI, J.]