

—
IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
CIVIL APPLICATION (W) NO.2836/2017

IN

(1)WRIT PETITION NO. 519/2017

(Ku.Sonal Goverdhan Tiple and others vs. State of Maharashtra and others)

WITH CONNECTED MATTERS,

viz.

(2)WRIT PETITION NO. 520/2017

(Pradipkumar s/o Ranjanna Laxttiwar and others vs. State of Maharashtra and others)

(3) WRIT PETITION NO. 521/2017

(Satish Vishnuji Gaurkar and others vs. State of Maharashtra and others)

(4)WRIT PETITION NO. 522/2017

(Ku.Manisha kadam and others vs. State of Maharashtra and others)

(5)WRIT PETITION NO. 523/2017

(Nilesh Raut and others vs. State of Maharashtra and others)

(6)WRIT PETITION NO. 524/2017

(Shweta Dighade and others vs. State of Maharashtra and others)

(7)WRIT PETITION NO. 525/2017

(Sachin Sawai and others vs. State of Maharashtra and others)

(8)WRIT PETITION NO. 526/2017

(Vishal Dhole and others vs. State of Maharashtra and others)

(9)WRIT PETITION NO. 527/2017

(KuMadhuri kale and others vs. State of Maharashtra and others)

(10)WRIT PETITION NO. 528/2017

(Ganesh Tupekar and others vs. State of Maharashtra and others)

(11)WRIT PETITION NO. 529/2017

(Vijay Rathod and others vs. State of Maharashtra and others)

(12) WRIT PETITION NO. 530/2017

(Ravishankar Rangankar and others vs. State of Maharashtra and others)

(13)WRIT PETITION NO. 531/2017

(Aditya Sarmokadam and others vs. State of Maharashtra and others)

(14)WRIT PETITION NO. 532/2017

(Vinod Tayde and others vs. State of Maharashtra and others)

(15)WRIT PETITION NO. 533/2017

(Mahesh Pundalik Kasture and others vs. State of Maharashtra and others)

(16)WRIT PETITION NO. 534/2017

(Ravindra Kumare & others vs. State of Maharashtra and others)

(17)WRIT PETITION NO. 535/2017

(Nitin Yembadwar vs. State of Maharashtra and others)

(18)WRIT PETITION NO. 536/2017

(Ravi Shaligram Mehar and others vs. State of Maharashtra and others)

(19)WRIT PETITION NO. 537/2017

(Bhupesh Raut and others vs. State of Maharashtra and others)

(20)WRIT PETITION NO. 538/2017

(Nilesh Bandurkar and others vs. State of Maharashtra and others)

(21)WRIT PETITION NO. 539/2017

(Pravin Tagalpallewar and others vs. State of Maharashtra and others)

(22)WRIT PETITION NO. 540/2017

(Sandip Dasarwar and others vs. State of Maharashtra and others)

(23)WRIT PETITION NO.541/2017

(Mohd. Wahid Abdul Rahuf and others vs. State of Maharashtra and others)

(24)WRIT PETITION NO. 542/2017

(Gajanan Bodhane and another vs. State of Maharashtra and others)

(25)WRIT PETITION NO. 940/2017

(Shrikant kadam and another vs. State of Maharashtra and others)

(26)WRIT PETITION NO. 941/2017

(Bharti jadhav vs. State of Maharashtra and others)

(27)WRIT PETITION NO. 2237/2017

(Rakesh Teltiwar vs. State of Maharashtra and others)

(28)WRIT PETITION NO. 7412/2017

(Rupesh Lokhande and others vs. State of Maharashtra and others)

(29)WRIT PETITION NO. 7429/2017

(Ku.Kanchan Mun and others vs. s. State of Maharashtra and others)

.....
Office Notes, Office Memoranda of
Coram, appearances, Court's orders
of directions and Registrar's orders
.....

Court's or Judge's order

Mr. Anand Parchure/ Amol B. Patil ,Advs. for petitioners

CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.

DATED : 12th December, 2017.

1. This Court has looked into present challenge at some length on earlier occasions. Petitioners claim that their initial entry into employment is after proper procedure. It appears that initially necessary permissions were granted which resulted into their recruitment and then the recruitment was found bad for various reasons. Orders passed by Education

Officer were set aside in first round of litigation and controversy has now been considered by the Deputy Director of Education. The Deputy Director of Education has also found either a backlog or then availability of surplus teachers as reasons.

2. According to petitioners, respondents have in reply-affidavit invented some new reasons.

3. We find that on 27th June 2017, we have noted that respondents were not willing to cooperate with the Court. Recruitment was made in academic year 2013-14 and if surplus teachers were available in that year, respondents could have very well made record available. Hence, we had then imposed costs of Rs. 2000/- upon Deputy Director of Education.

4. Controversy was considered further on 28th August, 2017 and then a document dated 13.10.2016 was shown to this Court to show availability of 5 to 6 teachers to teach English. We have taken note of the fact that the position reflected therein was as on 28.10.2014 i.e. after staff justification for year 2014-15. We also observed that earlier on 9.5.2015 i.e. in previous academic year, Deputy Director of Education informed that in Amravati region not a single teacher was available to teach English subject. We, therefore, directed the Registry to list all matters on 14.9.2017 at 2.30 p.m. On that day, we have passed a lengthy order after taking note of PIL No.8/2015 and about website to be created containing necessary data.

5. On 6th October, 2017 we have again imposed costs of Rs. 500/- each and awarded costs to each of the petitioners. On 30th October, 2017 we heard special counsel and noted

statement that website has become functional.

6. It is in this background that above-mentioned Civil Application has been taken out. In C.A., the applicant-Education officer has submitted that because of stand taken by management regarding compliance with reservation policy, it has become necessary to examine the same by verifying of original records and to complete that exercise, period of six weeks is required. This application has been filed on 6.12.2017 by special counsel.

7. As the exercise is being undertaken afresh and petitioners-teachers are continuing without any salary as alleged, we find that in this situation, interest of justice can be met with by permitting respondents to verify all necessary facts including staff justification, roster and also availability of surplus teachers as per law. If the clock cannot be set back at this juncture, staff justification available now after September, 2017 can also be looked into as petitioners-teachers have completed more than 3 to 4 years of service.

8. However, we cannot permit petitioners-teachers to suffer for this negligence or inaction either on part of Department or their managements. Hence, in this situation, without laying down any precedent, we direct respondents to release salary of petitioners from 1st December, 2017 onwards till 31st March 2018 regularly in their bank accounts. The concerned teachers shall receive it as a concession and it will not cloathe them with additional right, either in equity or in law. If their approval is rejected, the respondent Government Department

shall be free to recover the amount thereof from respective managements.

9. We, with these directions allow the Civil Application and permit respondents to complete the exercise as mentioned *supra* or then exercise as prayed for within time as prayed for or then in any case by 28th February, 2018. Opportunity of hearing shall be extended to concerned teachers before taking any adverse decision

10. Accordingly we allow the Civil Application.

11. Though counsel for respective petitioners submit that petitioners' petitions should be kept pending till then as fresh orders are to be passed, as only such other petitioners who are aggrieved thereby may be required to challenge the same. We are not inclined to keep the petitions pending. Writ Petitions are accordingly disposed of. No costs.

12. At this stage, it is pointed out in the Court that in some matters approvals are already granted and question is about correct date from which the approval should become effective. It is apparent that in view of the applications moved in such matters, fresh exercise as mentioned *supra*, to find out correct date can also be undertaken therein. However salary released to such teachers shall be from the date of approval as granted or then as determined after such exercise. It is pointed out to this court that in some cases there are more than one teacher as petitioners and some of them have already been given approval, their cases may not be subject to this arrangement. It is apparent

that if such petitioners who have already received approval are not aggrieved and their grievance is not under consideration, the above order will not be applicable in their matters.

JUDGE

JUDGE

safare