

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 2880 OF 2017

(Ku. Payal Ghanshyam Birkhede & Ors. vs. State of Maharashtra thr. its Secretary, Department of Education and Sports & Ors.) WITH

WRIT PETITION NO. 2406 OF 2017

(Ku. Kavita Vinayakrao Jadhao & Ors. vs. State of Maharashtra thr. its Secretary, Department of Education and Sports & Ors.) AND

WRIT PETITION NO. 2970 OF 2017

(Heena Farhat Mohd. Umar Ansari & Ors. vs. State of Maharashtra thr. its Secretary, Department of Education and Sports & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
OCTOBER 09, 2017.**

Heard Shri P.N. Shende and Shri G.L. Agrawal, learned counsel for the petitioners in respective petitions, Ms. N.P. Mehta, learned AGP for respondent Nos. 1 & 2 and Shri P.B. Patil, learned counsel for respondent No. 3.

2. Shri Patil, learned counsel, along with pursis tendered instructions received by him from the Commissioner, Maharashtra State Council of Examinations, Pune. The same are taken on record and marked as Exh. "X" for identification.

3. The petitioners, who had not cleared First Year of D.T. Ed. Course were given admission in Second Year D.T. Ed. Course as the course was to be discontinued.

However, the petitioners attempted to appear for Second year D.T. Ed. examination only on the strength of admission, though they never cleared First Year D.T. Ed. examination. The respondents did not permit them to so appear and insisted that they must first clear D.T. Ed. First Year examination.

4. It appears that communication dated 30.03.2017 sent by respondent No. 3 to all his subordinates was questioned by the petitioners before this Court on 27.04.2017. In Vacation on 12.05.2017, this Court granted them interim relief. Accordingly, they have been permitted by the respondents to appear for Second Year D.T. Ed. examination.

5. It is apparent that interim orders issued by this Court are subject to final adjudication. Concession made by the respondents cannot cloth the petitioners with any right. They have to show that they have passed First Year D.T. Ed. Examination. It is apparent that before Second Year D.T. Ed. examination, they had not passed First Year examination. There are total 116 petitioners before this Court. If any of them have passed First Year D.T. Ed. examination along with Second Year examination, we direct the respondents to find out whether they have passed in First Year examination. If they have passed, in that case only, the respondents shall proceed to evaluate their performance in examination to which they have appeared

because of interim orders of this Court.

6. However, we also add that the respondents have, by not employing proper language, created this situation. They could not have, even as special case, permitted candidates to appear for Second Year examination and could have clearly specified so in their circular.

7. With these directions and observations, we dispose of the present petitions. However, there shall be no order as to costs.

JUDGE

JUDGE

*GS.