

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITIOIN NO. 1481 OF 2018

1. Padmanath Kondiba Garje
Age : 47 years, Occ : Service,
R/o Garje Vasti, Ashti,
Tq. Ashti, Dist. Beed.
2. Subhash Baban Jagtap
Age : 40 years, Occ : Service,
R/o Gahukhel, Tq. Ashti,
Dist. Beed.
3. Sharad Angadrao Zende
Age : 45 years, Occ : Service,
R/o Jamkhed (Near Animal Market),
Tq. Jamkhed, Dist. Ahmednagar.
4. Sanjay Ramdas Kachare
Age : 44 years, Occ : Service,
R/o Matoshri Coloney Ashti,
Tq. Ashti, Dist. Beed.
5. Tulshidas Zumber Kokane
Age : 50 years, Occ : Service,
R/o Chikhali, Tq. Ashti,
Dist. Beed.
6. Madhukar Dattatraya Dhumal
Age : 49 years, Occ : Service,
R/o Jalgaon, Tq. Ashti,
Dist. Beed.
7. Subhash Nanabhau Bangar
Age : 48 years, Occ : Service,
R/o Matawali, Tq. Ashti,
Dist. Beed.
8. Balu Eknath Bansode
Age : 40 years, Occ : Service,

R/o Sambhaji Nagar, Ashti,
Tq. Ashti, Dist. Beed.

9. Sunita Tanhaji Mahajan
Age : 42 years, Occ : Service,
R/o Vinayak Nagar, Ashti,
Tq. Ashti, Dist. Beed.
10. Vaishali Parmeshwer Khakal
Age : 40 years, Occ : Service,
R/o Hivara, Tq. Ashti, Dist. Beed.
11. Pratima Prakash Deshmukh
Age : 40 years, Occ : Service,
R/o Ramesh Khade Nagar,
Jamkhed, Tq. Jamkhed,
Dist. Ahmednagar.
12. Hemlata Hanumant Tarate
Age : 49 years, Occ : Service,
R/o Ganesh Nagar, Ashti,
Tq. Ashti, Dist. Beed.

..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai-32.
2. The Director of Education (Primary),
Maharashtra State, Pune.
3. The Chief Executive Officer,
Zilla Parishad, Beed.
4. The Education Officer (Primary),
Zilla Parishad, Beed.

..RESPONDENTS

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Shri T.M. Tandale, Advocate for the petitioners.
Shri S.Y. Mahajan, AGP for the Respondent/State.

Shri. Kiran B. Jadhavar, Advocate for Respondent Nos.3 and 4.

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**CORAM: S.S.SHINDE &
S.M.GAVHANE, JJ.**

Reserved on : 08.02.2018
Pronounced on : 20.02.2018

JUDGMENT : (Per S.S.Shinde, J.):

Not on board. On mentioning taken on board.

2. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.

3. Learned counsel appearing for the petitioners submits that, the Chief Executive Officer, Zilla Parishad, Beed has issued the impugned order, thereby reverting the petitioners from the post of Trained Graduate Teachers to Assistant Teachers, however without giving an opportunity of hearing and

in contravention to the principles of natural justice. The Chief Executive Officer has passed the impugned order, which is contrary to the government policy as well as the law laid down by the Hon'ble Apex Court. The impugned order passed by the Chief Executive Officer, Zilla Parishad, Beed is without there being any valid reason and without application of mind, and therefore, the same is required to be quashed and set aside in the interest of justice.

4. Learned A.G.P. appearing for the Respondent State and its officials and the learned counsel appearing for the Zilla Parishad, Beed submit that the order impugned in this Petition is self speaking, in as much as, the reasons are assigned in the impugned order, and therefore, the Petition deserves to be dismissed in limine.

5. We have considered the rival submissions advanced by learned counsel appearing for the parties, and also perused the pleadings and grounds taken in the Petitions. Admittedly, before passing the impugned order thereby reverting the petitioners from the post of Trained Graduate Teachers to the Assistant Teachers, the reasonable opportunity of hearing has not been afforded to the respective petitioners. The impugned order is passed in breach of principles of natural justice, and therefore, on the said ground alone, said order deserves to be quashed and set aside.

6. In the similar fact situation, this Court in Writ Petition No. 217 of 2018 (Tatyaram S/o Dhanlal Kanade and others V/s The State of Maharashtra and others) and other connected Petitions, on 24th January, 2018 in paras 5 to 7 observed thus :

"5. We have considered the rival submissions advanced by learned counsel appearing for the parties, and also perused the pleadings and grounds taken in the Petitions. Admittedly, before passing the impugned orders thereby reverting the petitioners from the post of Trained Graduate Teachers to the Assistant Teachers, the reasonable opportunity of hearing has not been afforded to the respective petitioners. The impugned orders are passed in breach of principles of natural justice, and therefore, on the said ground alone, said orders deserve to be quashed and set aside to the extent of petitioners in each Petition.

6. The Bombay High Court Bench at Goa in the case of **Mrs. Kunda Santosh Kerkar alias Kunda Narayan Kerkar V/s Hon'ble Speaker, Goa Legislative Assembly and ors.**¹ in similar facts situation observed that the impugned order in the said

1 2016(5) Mah.L.J. 593

petition is passed without giving an opportunity of hearing to the petitioner therein, and accordingly, the said impugned order was quashed and set aside. In the facts of that case also the petitioner therein was promoted and thereafter, he was reverted to the original post of Junior Assistant with immediate effect. The said order was passed without hearing the petitioner therein, which came to be quashed on the ground of violation of principles of natural justice.

7. In the light of discussion herein above, the impugned orders dated 14th December, 2017 in respective Writ Petitions, passed by the Chief Executive Officer, Zilla Parishad, Beed are quashed and set aside to the extent of the petitioners. The Petitions are accordingly allowed. Rule made absolute in above terms.

However, we make it clear that, we have quashed and set aside the impugned orders only on the ground of

non-adherence to the principles of natural justice and not on any other ground. We further make it clear that, though we have allowed these Petitions, the same shall not be construed as an impediment to the concerned Respondent/ Respondents from passing an appropriate order/orders on merits of each case."

7. Taking the same view and for the same reasons as stated in order dated 24th January, 2018 passed in Writ Petition No.217 of 2018 and other connected Writ Petitions, referred above, we pass the following order :-

ORDER:-

(i) The impugned orders dated 14th December, 2017 issued by the Respondent – Chief Executive Officer, Zilla Parishad, Beed is quashed and set aside. The petition is accordingly allowed. Rule made absolute in above terms.

However, we make it clear that, we have quashed and set aside the impugned order on the ground of non-adherence to the principles of natural justice and not on any other ground. We further make it clear that, though we have allowed this Petition, the same shall not be construed as an impediment to the concerned Respondent from passing an appropriate order on merits.

(ii) Other similarly situated teachers, whose names are mentioned in the impugned orders and who have not approached this Court, and the facts in their cases and the action taken against them, is identical, in that case, the decision taken in Writ Petition No.217 of 2018 and other connected Writ Petitions shall be made applicable and they are not required to file separate Petition/Petitions. The Chief Executive Officers shall take

appropriate corrective steps/ measures even in the case of similarly situated employees, who have not approached to this Court, but their names have been shown in the impugned order.

[S . M . GAVHANE]
JUDGE

[S . S . SHINDE]
JUDGE

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