

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

WRIT PETITION NO.7727 OF 2017

Shaikh Latif Shaikh Jani ..Petitioner

Versus

The State of Maharashtra through
Secretary, Department of School
Education, Mantralaya, Mumbai and ors. ..Respondents

- WITH -

WRIT PETITION NO.7728 OF 2017

Mohammad Washim Mommad Salim ..Petitioner

Versus

The State of Maharashtra through
Secretary, Department of School
Education, Mantralaya, Mumbai and ors. ..Respondents

- WITH -

WRIT PETITION NO.7729 OF 2017

Quazi Kashifoddin Iftekharoddin ..Petitioner

Versus

The State of Maharashtra through
Secretary, Department of School
Education, Mantralaya, Mumbai and ors. ..Respondents

- WITH -

WRIT PETITION NO.7730 OF 2017

Pathan Jafar Ali Khan Abdul
Wahid Khan ..Petitioner

Versus

The State of Maharashtra through
Secretary, Department of School
Education, Mantralaya, Mumbai and ors. ..Respondents

Mr Sachin S. Deshmukh, Advocate for petitioners
Mr A.S. Shinde, A.G.P. for respondents no.1 and 2
Mr M.S. Shaikh Advocate for respondents no.3 and 4 - Absent

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVALA, JJ**

DATE : 11th January 2018

PER COURT

1. Mr Deshmukh, learned Counsel for petitioners submits that all these petitioners are appointed after following due procedure of law. Their appointments as Shikshan Sevaks were approved by the Education Officer after conducting necessary enquiry. On completion of three years, the petitioners are also granted permanent approval. However, under the impugned order, the Education Officer has cancelled the approval granted to the post of the petitioners on the ground that at the relevant time, there was ban on recruitment as per Government Resolution dated 2.5.2012 and in view of letter of the Commissioner (Education).

2. Learned Counsel for the petitioners submits that the Education Officer does not have power of review. Moreover, he also could not have cancelled the earlier approval of the petitioners appointed by following due procedure of law and in a minority institution.

3. The learned A.G.P. submits that large number of surplus candidates are to be accommodated. Even there does not appear to be advertisement and the permission was not granted to fill in the posts. In view of that the decision is rightly taken.

4. As far as Government Resolution dated 2.5.2012, three of the petitioners are appointed prior to the said resolution. The petitioners

have placed on record the certificate issued to the respondent-institution of being minority institution. In view of that, the minority institution cannot be compelled to absorb surplus candidates. The approval was granted to the posts of the petitioners as Shikshan Sevaks in the year 2013 and on completion of three years, they were granted permanent approval as Assistant Teachers at the relevant time. The presumption is that proper procedure was followed.

4. On the ground that there was a ban on recruitment as per Government Resolution dated 2.5.2012, the approval could not have been cancelled. More particularly, as the respondent - institution is a minority institution and since the approvals have been granted to the petitioners.

5. In light of above, the impugned order is quashed and set aside. In view of setting aside the impugned order, the necessary consequences to follow. Writ Petition is accordingly allowed. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)

vvr