

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.376 OF 2011

1. Smrutee S. Kamulkar,
near Ravalnath Temple,
Maus Waddo, Pernem, Goa.
2. Sushma C. Naik,
r/o. H.No.188, Ramniwas,
Deul wada, Marcela, Goa.
3. Yeshwant A. Malwadkar,
Ameya waddo, Khandola,
Marcela, Ponda, Goa.
4. Elvina Ferrao,
Shellim Loliem,
Canacona, Goa.
5. Smita D. Juvekar,
Flat No.S-2, Prajakta Apartments,
Opp. Sewage Treatment Plant,
Shirvodem, Margao, Goa.
6. Shailendra R. Palyekar,
C/o. Bhirondem,
Kharebandh, Pernem, Goa.
7. Refan Pereira,
H.No.677/1, Caroi Velim,
Salcete, Goa.
8. Poonam S. Deshmukh,
r/o. H.No.1468, Ganadheep,

Chandra waddo,
Fatorda, Margao, Goa.

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Petitioners.

Versus

1. State of Goa,
through the Chief Secretary,
Alto Porvorim, Bardez, Goa.

2. Secretary of Education,
Alto Porvorim, Bardez, Goa.

3. Directorate of Education,
through its Director, Mrs. Selsa Pinto,
18th June Road, Panaji, Goa.

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Respondents.

Mr. Rohit Bras da Sa, Advocate for the Petitioners.

Mr. Pradosh Dangui, Government Advocate for the Respondents.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 24 October 2018.

ORAL JUDGMENT : (Per N.M. Jamdar, J.)

By this Petition, the Petitioner has challenged the advertisement for filling up the vacancies to the post of Vocational Teachers for the Academic Year 2011-2012 in Commercial Garment and Making, Office Secretaryship and Stenography and Electronic Technology and consequently appointments made pursuant to the

said advertisement.

2. The advertisement was issued on 15 May 2010. The Petitioners applied pursuant to the advertisement and they were called for interviews. Thereafter Writ Petition No. 320/2011 came to be filed wherein a statement was made on behalf of the State that the selection process was being withdrawn. Thereafter the posts are advertised and the Petitioners have filed this Petition.

3. Rule was issued on 28 June 2011. Interim relief was refused. The Petition came on board on 1 September 2018 and it was adjourned. On 12 October 2018, time was sought on behalf of the Petitioners for taking instructions and the Petition was adjourned to 17 October 2018. On 17 October 2018, following order was passed:

“The learned Government Advocate points out that the impugned advertisement was given effect to, the teachers were appointed for a period of one academic year pursuant to the advertisement, which academic year has also come to an end. The Interim relief was refused in this petition.

2. It is clear that petition has become infructuous and could have been disposed of on that ground. However, since the learned Counsel for the Petitioner is not present, by way of indulgence, stand over to 24 October 2018 to be listed under the caption “For Dismissal”.”

4. The learned Counsel for the Petitioners submitted that the Petition has not become infructuous inasmuch as the appointed/selected candidates continue to be in service. He submitted that their continuance is contrary to law and the appointed candidates cannot continue on permanent posts in such a fashion.

5. The advertisement which is under challenge itself stipulates that the applications were invited for the posts purely on temporary basis for the Academic Year 2011-2012. It is pursuant to this advertisement, the candidates have been appointed. This academic year is over. The Petition is pending since the year 2011. According to the Petitioners, the said persons continue to be in service. It is not made clear as to whether there was any subsequent advertisement and another selection process. There is neither any amendment to the Petition, nor the said persons have been joined as party Respondents.

6. Since we find that the present Petition is limited to the Academic Year 2011-2012 and that it has continued to remain pending for last seven years in this fashion, it has clearly become infructuous. If there are some other grounds and that the appointed

candidates have continued in service unauthorizedly, it is always open to the Petitioners to take up that cause separately, which will obviously be considered on its own merits .

7. The Writ Petition is accordingly disposed of. Rule is discharged. No costs.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.