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

WRIT PETITION NO. 9282 OF 2017

1. Peoples Education Society, Mandane
at post Mandane, Tq. Shahada,
District Nandurbar
Through its Chairman,
Shri J.T. Pawar
 2. Mar. Haresh Anandrao Patil,
Age: 30 years, Occ: Service,
R/o. at post Madane, Shahada, Tq. Shahada,
Dist. Nandurbar
- ..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
School and Education Department,
Mantralaya, Mumbai-32
 2. The Director of Education,
Maharashtra State, Pune
 3. The Education Officer (Secondary)
Zilla Parishad, Nandurbar
- ..RESPONDENTS

Mr A.B. Jagtap, Advocate h/f Mr V.D. Sapkal, Advocate for petitioners;
Mrs Vaishali N. Patil - Jadhav, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 2nd APRIL, 2019

ORAL ORDER:

Heard learned Counsel for the petitioners.

2. The petitioners challenge the order passed by the Education

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Officer (Secondary), Zilla Parishad, Nandurbar dated 13th June, 2017 whereby proposal of the petitioners for grant of approval submitted by the society is rejected on two grounds; firstly, there was no absorption of 100% teachers who were declared surplus and secondly, certain orders were passed by the Division Bench of this Court at Nagpur. Now, the issue of such rejection orders was a subject matter before the Principal Seat and in bunch of petitions, namely Writ Petition No.8587 of 2016 and other connected petitions, the Division Bench considering rejection orders on the ground alike in the present petition passed by the Education Officer as well as other ground that ban for appointment under Government Resolution was operating decided writ petitions.

3. By way of detailed order dated 10th July, 2017, the Division Bench of this Court was pleased to observe that on one hand, the proposals were rejected on the ground of non absorption of surplus teachers and on the other hand, the Education Officers are not prompt in forwarding names of such surplus teachers so as to be absorbed leading to a situation wherein there are no teachers in large number of schools. The Division Bench of this Court has carved out certain categories in paragraph-9 of the order, directing the Education Officers to examine independent cases and grant approval to each of the teachers who fall in the following three categories, which read thus :

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- (a) where the recruitment process is already commenced prior to GR dated 2nd May 2012;
- (b) where the appointments made for filling up vacancies in English, Mathematics and Science;
- (c) where the recruitment is made to fulfill the backlog of reserve categories candidates;

4. It is also not in dispute that in identical circumstances, the Division Bench of this Court, by referring to the order of the Division Bench in Writ Petition No. 8587 of 2016 dated 10th July, 2017 (Coram: B.R. Gawai and Riyaz I. Chagla, JJ.) adopted view of the Division Bench taken in Writ Petition No. 8587 of 2016 and other connected petitions and allowed the petitions.

5. Petitioner No.2 who is a candidate belonging to open category was appointed on the post which was advertised for reserved category candidate as reserved category candidate was not available and he was appointed to teach Mathematics and Science subjects, as such, case of petitioner No.2 falls in category (b).

6. The petition is partly allowed.

7. The order passed by the Education Officer (Secondary), Zilla

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Parishad, Nandurbnar dated 13th June, 2017 impugned in the present petition is quashed and set aside. The Education Officer is directed to consider the proposal afresh on the backdrop of judgment and order passed by this Court in Writ Petition No.8587 of 2016 and other connected petitions by giving an opportunity of hearing to the petitioners as expeditiously as possible and not later than eight weeks from the date of receipt of the order of this Court. Needless to state that if in case the Education Officer grants approval, the necessary steps would be taken for payment of salary and other consequential benefits to the petitioners within twelve weeks from the date of grant of approval by the Education Officer.

8. With these directions, the petition is disposed of.

(**NITIN W. SAMBRE**)
JUDGE

(**PRASANNA B. VARALE**)
JUDGE

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