

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

919 WRIT PETITION NO. 11505 OF 2017

Savita Trimbak Ghadge,
Age 27 years, Occ. Service,
as an Assistant Teacher in
Rashtriya Prathmik Vidyalaya,
Vithal Mandir Chowk, Karimpura,
at Peth, Beed, Tq. & Dist. Beed.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through it's Secretary,
School and Education Department,
Mantralaya, Mumbai.
- 2) The Commissioner of Education,
Maharashtra State, Pune,
Tq. & Dist. Pune.
- 3) The Education Officer,
(Primary), Zilla Parishad,
Tq. & Dist. Beed.
- 4) The Head Mistress,
Rashtriya Prathmik Vidyalaya,
Vithal Mandir Chowk, Karimpura,
at Peth, Beed, Tq. & Dist. Beed.
- 5) The Secretary,
Priyadarshani Education Trust,
Karimpura, Tq. & Dist. Beed.

...RESPONDENTS

...
Shri. S. R. Kolhare and P. S. Kochar, advocate for petitioner
Shri. G. O. Wattamwar, AGP for Respondents No. 1 and 2
Shri. Umesh Mote, advocate for respondent No. 3
Shri. D. P. Munde, advocate for respondents No. 4 and 5
...

**CORAM : SUNIL P. DESHMUKH &
S.M. GAVHANE, JJ.**

DATE : 14-08-2019

JUDGMENT : (PER : SUNIL P. DESHMUKH, J.)

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally, by consent.

2. Petitioner has been appointed as Assistant Teacher by respondents No. 4 and 5 and under order dated 28-08-2014, her said appointment had been approved by respondent No. 3-the Education Officer (Primary Z. P., Beed), a copy thereof is annexed to the petition as Exh. E. It indicates that petitioner's appointment had been approved with effect from 16-06-2014 till the expiry of appointment on probation as *Shikshan Sevak*.

3. Subsequently, said order was sought to be recalled and cancelled by respondent No. 3 under communication dated 10th April, 2017 referring to Government Resolution dated 02-05-2015.

4. While aforesaid is an indisputable position, it would be worthwhile to note that the communication impugned in present petition dated 10th April, 2017 would be unsustainable and has been rendered untenable having regard to decision of this Court in the case of *Bhagawat s/o Balasaheb Munde and another vs. The State of Maharashtra and others* in Writ Petition No. 5766 of 2017 dated 12th September, 2017 as well as decision in writ petition bearing No. 10133 of 2016 and companion matters, whereunder, it

has been considered that for want of power to review, the order granting approval cannot be recalled unless a case of fraud/misrepresentation or suppression is made out.

5. Response of respondent No. 3 does not appear to make reference to any fraud or misrepresentation or suppression in present case.

6. In the circumstances, writ petition succeeds impugned order dated 10th April, 2017 passed by the Education Officer (Primary), Beed, being untenable and unlawful, is set aside. Consequences of aforesaid order would follow. Rule is made absolute accordingly.

7. Aforesaid decision, of course, would not undermine authority which may possibly had in respect of fraudulent approval.

[S.M. GAVHANE]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE