

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8505 of 2014  
WITH  
CIVIL APPLICATION NO.659 OF 2016  
IN  
WRIT PETITION NO. 8505 of 2014

|                                |     |             |
|--------------------------------|-----|-------------|
| Shri Nagnath Yeshwant Mali     | ... | Petitioner  |
| v/s.                           |     |             |
| Education Officer (Sec) & ors. | ... | Respondents |

Mr.D.W.Bhosale for the petitioner.

Mr. S.A.Rajeshirke for respondents 2 & 3.

Mrs. R.M.Shinde, AGP for respondents 1 & 4.

CORAM : B.R. GAVAI &  
DAMA SESHADRI NAIDU, JJ

15th APRIL 2019.

ORAL JUDGMENT (PER GAVAI,J)

Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. The petitioner has approached this Court being aggrieved by the

order passed by respondent no.1-Education officer dated 7th August 2014 vide which the approval granted to the petitioner vide order dated 19th October 2013 has been withdrawn.

3. The petition is vehemently opposed by the learned AGP on the ground that Education Officer who granted approval to the petitioner had granted it with some ulterior motive and the departmental proceedings are pending against her.

4. The Division Bench of this Court in a group of petitions being Writ Petition No.10133/2016 and other connected matters, to which one of us (Gavai,J) was a party, through judgment and order dated 1<sup>st</sup> August 2017, has held that power of review is not an inherent power. Unless the statute prescribes the power of review, the authority cannot review its own order. The only exception permissible is when an order sought to be reviewed is obtained by practicing the fraud on the authority who has passed the order.

5. In the present case, an ample opportunity was given to the respondents to file reply. No affidavit is filed to point out any fraudulent act on the part of the petitioner. In view of non denial of facts stated in the petition, the averments have gone unchallenged.

6. In that view of the matter, we are inclined to allow the petition.

The Rule is made absolute in terms of prayer clause (b).

7. Needless to state that the petitioner shall be paid salary as per approval dated 19<sup>th</sup> October 2013 from the month of May 2019. All the arrears to which the petitioner would be entitled as per approval dated 19<sup>th</sup> October 2013 would be released to him within a period of three months from today.

**(DAMA SESHADRI NAIDU, J)**

**(B.R.GAVAI, J)**

L.S. Panjwani, P.S.