

WRIT PETITION NO.10263 OF 2017

None for the petitioner.
Ms.K.P. Solunke AGP for Respondent Nos.1 to 3 – State.

DATE : 3RD JULY, 2019.

- 1] Rule. Rule made returnable forthwith. Learned AGP appears and waives service on behalf of the State.
- 2] The issue raised in the instant petition is no more res-integra as the same is covered by the decision rendered by the Division Bench of this Court on 1st August, 2017 in Writ Petition No.10133 of 2016 and companion matters.
- 3] The petitioner is aggrieved by the decision of the Education Officer dated 1st August, 2017 thereby recalling order of approval of the appointment accorded on 23rd February, 2017 and directing recovery of amount of salary paid to the petitioner during continuance of employment as the teacher. The petitioner was appointed as Shikshan Sevak by the order dated 7th June, 2007. The appointment of the petitioner as Shikshan Sevak has been approved by the Education Officer in view of the order dated 14th July, 2014. The Education Officer (successor-in-office) proceeded to review the order passed by his predecessor and by the impugned

order approval to the appointment of the petitioner as Shikshan Sevak has been recalled. In identical set of petitions the Division Bench of this Court has held that the Education Officer has no authority to take review of the orders passed by his predecessor in office. It is settled principle of law that unless the power of review is specifically or by necessary implication provided, the authority cannot review its own order. No doubt, if an order is obtained by exercising fraud, it would stand vitiated. However, in the instant petition there are no allegations that the order has been secured by committing fraud or by making misrepresentation or suppressing material facts. If at all any steps are required to be taken, it is permissible for the Officer, higher in rank, than the Education Officer, to initiate the appropriate steps and if at all any adverse order is proposed to be issued, the person against whom such order is proposed to be issued, shall have to be extended an opportunity of being heard.

4] Considering the judgment delivered by the Division Bench in the matter referred to above, instant petition deserves to be allowed and the same is accordingly, allowed. The order passed by the Education Officer, Zilla Parishad, Pune dated 1st August, 2017 recalling the order according approval of the appointment of the petitioner as Shikshan Sevak issued earlier, stands quashed and set aside.

5] Rule is accordingly, made absolute. There will be no order as to costs.

(N. J. JAMADAR, J.)

(R. M. BORDE, J.)