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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVEIW APPLICATION NO. 277 OF 2017
IN
WRIT PETITION NO.10636 OF 2010

Smt. Prafullata Bhagwanrao Deshmukh

APPLICANT

VERSUS

The State of Maharashtra and Others

RESPONDENTS

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Mr. Swapnil S. Patunkar, Advocate for the applicant

Mr. P. N. Kutti, AGP for respondent - State

Mr. V. V. Bhavthankar, Advocate for respondent No.2

Mr. S. R. Bagal, Advocate for respondents No. 6 to 8

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[CORAM : SUNIL P. DESHMUKH AND
B. U. DEBADWAR, JJ.]

DATE : 10th JANUARY, 2020

ORDER :

1. While writ petition had been moved seeking writ of mandamus to grant personal approval to appointment of petitioner, this court, under its order dated 10th July, 2012 had rejected the same, considering that concept of personal approval could not be explained and that appropriate procedure for recruitment had not been followed.
2. After hearing learned advocates for the parties, situation emerges that the petitioner had in fact been appointed in 1986

and had acquired trained teacher's qualifications in 1999. She had been removed from service at the behest of education officer, however, order of her removal has been set aside by the school tribunal under order dated 10th April, 2002, directing reinstatement of appellant/present petitioner with 75% back wages with consequential benefits.

3. Learned advocate for the applicant during the course of hearing of review application, contends that appointment of untrained teacher is not repugnant to the scheme of Maharashtra Employees of Private Schools Act and Rules and is not illegal. It is not that untrained teacher can never be appointed. The legal position accommodates such appointments, albeit, there is difference in pay scales of trained and untrained teachers. He refers to a recent decision of this court in *"Umabai Ramkirshna Deshmukh V/s State of Maharashtra and Others"* dated 4th July, 2019 in writ petition bearing No. 6143 of 2016 and companion matters. He also refers to a few decisions, viz., *"Mahatma Phule Krishi Vidyapeeth, Rahuri Vs. Ganpat Kisan Karale"* dated 3rd March, 2016 and *"State of Jharkhand and Others V/s Jitender Kumar Srivastava and Another "*AIR 2023 SC 3383.

4. Having regard to aforesaid, we deem it expedient, since the order falls short of depicting application of mind to quite a

few factual and legal major and relevant aspects, to recall order dated 10th July, 2012 passed by this court and to restore the writ petition for hearing afresh. Accordingly, order dated 10th July, 2012 stands recalled and the writ petition is restored for hearing afresh.

5. Review application stands disposed of accordingly.

[B. U. DEBADWAR]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

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