

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13316 OF 2017

Rajashree Sangappa Jadhav] Petitioner
Vs.
The State of Maharashtra and others.] Respondents

**WITH
WRIT PETITION NO.13051 OF 2017**

Shailaja Laxman Mahajan] Petitioner
Vs.
The State of Maharashtra and others.] Respondents

.....

Mr. S.D. Thokade, for Petitioners in both the Petitions.

Mr. Vikas Mali, A.G.P, for Respondent-State in both the Petitions.

Mr. A.S. Kulkarni, for Respondent No.3 in W.P. No.13316 of 2017
and Respondent No.2 in W.P. No.13051 of 2017.

....

CORAM: R.K. DESHPANDE &

PRITHVIRAJ K. CHAVAN, J.J.

DATE: 11th MARCH, 2020.

P.C:

Rule is made returnable forthwith. By consent of learned Counsel appearing for the parties, Petitions are taken up for final hearing.

2. It is not in dispute that the controversy in these Petitions is covered by the decision of the Division Bench of this Court rendered on 25th April, 2019 in Writ Petition No.5313 of 2017 and other connected matters. The issue decided is that the Government Resolution dated 28th June, 2016 regarding absorption of the surplus teachers does not apply to absorption of teachers from un-aided School to aided School run by the same Management.

3. In Writ Petition No.13316 of 2017, the petitioner is found to be a senior-most teacher working in an un-aided School and appointed against the post reserved for Scheduled Caste category.

4. In Writ Petition No.13051 of 2017, the person from open category is the senior-most. Both these persons are transferred to the aided School run by the same management. Rejection of the approval is only on the ground that as per the Government Resolution dated 28th June, 2016, the absorption is not permissible.

5. In view of the decision of the Division Bench of this Court referred to above, the orders impugned cannot be sustained. It will have to be quashed and set aside.

6. With the result, Writ Petitions are allowed. Orders dated 1st March, 2017 and 26th September, 2017 passed by Education Officer (Primary) Zilla Parishad, Solapur are hereby quashed and set aside. Education Officer is directed to consider claims of the Petitioners in accordance with law by ignoring the Government Resolution dated 28th June, 2016 and pass an appropriate order. Along with decision of grant of approval, the appropriate decision shall be taken in respect of salary. Salary if payable shall be released within two months from the date of the decision.

[PRITHVIRAJ K. CHAVAN, J.]

[R. K. DESHPANDE, J.]