

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Rajesh V.
Chittewan

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Rajesh V.
Chittewan
Date: 2021.02.24
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WRIT PETITION NO.4667 OF 2019

Uttam Sampat Maskar

... Petitioner

Versus

State of Maharashtra

And Others

... Respondents

ALONG WITH
WRIT PETITION NO.4668 OF 2019

Ashish Jaysing Gharge

... Petitioner

Versus

State of Maharashtra

And Others

... Respondents

ALONG WITH
WRIT PETITION NO.4669 OF 2019

Sarita Narayan Kadam

... Petitioner

Versus

State of Maharashtra

And Others

... Respondents

ALONG WITH
WRIT PETITION NO.4670 OF 2019

Sunita Narayan Gaikwad

... Petitioner

Versus

State of Maharashtra

And Others

... Respondents

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Mr. Laxman S. Deshmukh for the Petitioners in all writ petitions.

Smt. P.N. Diwan, AGP for Respondent Nos.1 and 2-State in Writ

Petition No.4667 of 2019.

Ms. S.S. Bhende, AGP for Respondent Nos.1 and 2 in Writ Petition No.4668 of 2019.

Mr. V.M. Mali, AGP for Respondent Nos.1 and 2 in Writ Petition No.4669 of 2019.

Mr. S.B. Kalel, AGP for Respondent Nos.1 and 2 in Writ Petition No.4670 of 2019.

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**CORAM : S.C. GUPTE AND
SURENDRA P. TAVADE, JJ.**

DATE : 8 FEBRUARY 2021

P.C.

. This group of petitions challenges want of approval on the part of the education authorities to the appointments of the Petitioners as teachers. The Petitioners were duly appointed as part time Shikshan Sevaks, with approvals of the education authorities. Upon arising of vacancies of full time teachers in their respective institutions, they were upgraded as full time teachers. The education authorities have failed to approve such upgradation.

2 So far as the Petitioners in Writ Petition Nos.4669 of 2019 and 4670 of 2019 are concerned, during the pendency of their petitions, orders have been issued by Deputy Director of Education, Kolhapur

Division, approving their respective appointments as full time teachers in regular pay-scale with effect from the respective dates of their upgradation. Hence, grievances in these petitions do not survive. Writ Petition Nos.4669 of 2019 and 4670 of 2019 are accordingly disposed of as infructuous. No order as to costs.

2 Heard learned Counsel for the Petitioners in Writ Petition Nos.4667 of 2019 and 4668 of 2019 as well as learned AGP for the Respondent-State. **Rule.** Rule is taken up for hearing forthwith by consent of the parties.

3 As noticed above, the respective Petitioners were appointed as part time Shikshan Sevaks. Their appointments had the approval of education authorities. Upon accrual of vacancies in the posts of full time teachers, they were upgraded as full time Shikshan Sevaks. Their respective managements thereupon submitted proposals to Deputy Director of Education seeking the latter's approval to such upgradation. Deputy Director has not communicated any response. Hence, the petitions.

4 It is not in dispute that in all these cases, the Respondent-State has refrained from granting approvals, purportedly on the ground of G.R. dated 23 June 2017. This court has made it clear in a number of cases including the case of **Sandip Gajanan Kulkarni Vs. The State**

of Maharashtra¹ that G.R. dated 23 June 2017 applied to new appointments in full-time posts and not to upgradation of already appointed part-time teachers as full-time appointees. In **Sandip Gajanan Kulkarni's** case, this issue and various judgements of Division Benches of this Court including principles laid down therein, have been fully discussed.

5 Learned AGP is not in a position to distinguish the facts of the present case from the facts in **Sandip Gajanan Kulkarni's** case or justify the inaction on the part of the education authorities in the present case despite the law laid down therein.

6 Rule, accordingly, is made absolute and the petitions are allowed by directing Respondent No.2 in all these petitions to take decisions on the applications for approval of the respective Petitioners' appointments in full-time posts (the Petitioners having already completed their probationary periods as Shikshan Sevaks even as full-time appointees) without regard to the ban on appointments contained in the G.R. of 23 June 2017. Respondent No.2 shall accord his approvals to the Petitioners' appointments in case nothing is found against the propriety of such appointments. Such decision shall be taken within a period of six weeks from today.

1 WPL No.1934 of 2019, decided on 25 January 2021

7 Writ Petition Nos.4667 of 2019 and 2668 of 2019 are disposed of accordingly.

(SURENDRA P. TAVADE, J)

(S.C. GUPTE, J.)