

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4764 OF 2021

V. B. Dumbre @ Jyoti Jaydes Dangat ... Petitioner
Versus
Chairman / Secretary
Subhash Vidya Mandal, Pimpalwandi & Ors. ... Respondents

**WITH
WRIT PETITION NO. 3727 OF 2021
WITH
WRIT PETITION NO. 3729 OF 2021
WITH
WRIT PETITION NO. 3728 OF 2021**

The President Secretary Subhash Vidya Mandir ... Petitioner
Versus
The Education Officer (Secondary) & Ors. ... Respondents

**WITH
WRIT PETITION NO. 3726 OF 2021**

The Chairman/ Secretary Subhash Vidya Mandir ... Petitioner
Versus
The Education Officer (Secondary) & Ors. ... Respondents

**WITH
WRIT PETITION NO. 4765 OF 2021**

Sanjay Raosaheb Unde ... Petitioner
Versus
The Chairman/ Secretary Subhash
Vidya Mandir & Ors. ... Respondents

**WITH
WRIT PETITION NO. 4763 OF 2021**

Mangal A. Dukare @
Mangal G. Gadage

... Petitioner

Versus

The Chairman/ Secretary Subhash
Vidya Mandir & Ors.

... Respondents

**WITH
WRIT PETITION NO. 4766 OF 2021**

Anita B. Matale @ Anita R Kakade

... Petitioner

Versus

The Chairman/ Secretary Subhash
Vidya Mandir & Ors.

... Respondents

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Mr. Mandar Limaye with Ms. Kettaki Karale, Advocates for
Petitioner in WPs 4764/21, 4763/21, 4765/21 and 4766/21.

Mr. Sarang S. Aradhya, Advocate for Petitioners in WPs 3726/21
to 3729/21.

Mrs. P. J. Gavhane, AGP for State in WPs 4764/21, 3727/21 and
3729/21.

Mr. N. K. Rajpurohit, AGP for State in WP 3726/21.

Mrs. P. N. Diwan, AGP for State in WP 3728/21.

Ms. S. S. Bhende, AGP for State in WP 4765/21.

Ms. V. M. Mali, AGP for State in WP 4763/21.

Mr. N. C. Walimbe, AGP for State in WP 4766/21.

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**CORAM: R. D. DHANUKA AND
ABHAY AHUJA, JJ.**

DATE : 23RD NOVEMBER, 2021

P.C. :-

1. Rule.

Learned AGPs waive service on behalf of the respondents.

By consent of the parties petition is heard finally.

2. By these petitions either filed by the teachers or by the management raised a common issue whether the Deputy Director of Education did have jurisdiction to pass the impugned order dated 9th December 2020 setting aside the order of approval granted to the teachers on the grounds raised in the petition.

3. Learned counsel appearing for the petitioner invited our attention to the impugned order passed by the Deputy Director of Education and also the show cause notice issued by him in this regard. He also placed reliance on the judgment of this Court dated 30th March 2021 in case of **Ansari Amina Mujhar Ali Vs. The State of Maharashtra and Ors. in Writ Petition No. 1380/2019** and other companion writ petitions and submitted that in this case admittedly there were no allegations of fraud, suppression and misrepresentation on the part of the teachers or the management and thus, Deputy Director of Education could not have exercised any powers of setting aside the orders passed by the Education Officer under the Resolution dated 23rd August 2017 granting approval to the appointment of the petitioner.

4. Learned AGP appearing for the State could not distinguish the said judgment delivered by this Court in case of Ansari Muzhar (supra). This Court in a recent judgment delivered on **16th November 2021 in case of Bhushan Vikas Gawad Vs. State of Maharashtra and Ors. in Writ petition no.1491/21** and companion writ petitions, after adverting the said judgment dated 30th March 2021 delivered by this Court in case of Ansari (supra) has taken the identical view.

5. In our view the said judgments in case of Ansari (supra) and in case of Bhushan Vikas Gawad (supra) would apply to the facts of this case. We do not propose to take a different view in this matter. In our view since there are no allegations of fraud, suppression and misrepresentation in the show cause notice issued by the Deputy Director of Education, even if the Deputy Director of Education have the limited powers of review of the order passed by the Education Officer under Resolution dated 23rd August 2017, order of the Education Officer cannot be set aside on the ground of irregularity. Since no such grounds are mentioned in the show cause notice and consequentially in the impugned order, the said order is quashed and set aside being

contrary to the principles of law laid down by this Court in the aforesaid two judgments.

6. We accordingly pass the following order:-

- (i) Writ Petitions are allowed in terms of prayer clause (a) and (b).
- (ii) The consequential benefit, if any, due the petitioner on the approval granted by the Education Officer shall be paid to the teachers/petitioners within six weeks from today.
- (iii) Rule is made absolute in the aforesaid terms.
- (iv) No order as to costs
- (v) Parties to act upon an authenticated copy of this order.

[ABHAY AHUJA, J.]

[R. D. DHANUKA, J.]

NIKITA
YOGESH
GADGIL

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by NIKITA
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