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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8166 OF 2019

Nitin D.Panchal	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION NO.1876 OF 2020

Sushant P. Bhandare	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

WITH
WRIT PETITION NO.1318 OF 2020

Gotu D. Gaikwad	...Petitioner
V/s.	
The State of Maharashtra & Ors.	...Respondents

Mr.Prashant Bhavake for the Petitioners in the above Writ Petitions.

Mr.Narendra V. Bandiwadkar for the Intervenor.

Mr.V.M. Mali, AGP with Ms.Sushma Bhende, AGP, Mrs.P.J. Gavhane, AGP, Mr.N.K. Rajpurohit, AGP, Mr.N.C. Walimbe, AGP, Ms.K.N. Solunke, AGP for the State – Respondent in the above Writ Petitions.

Mr.Utkarsha S. Desai for the Respondent – Management.

CORAM : R.D. DHANUKA &
ABHAY AHUJA, JJ.
DATE : 7TH OCTOBER, 2021.

P.C. :-

1. Rule. Learned counsel for the respondents waives service.
2. By Consent of the parties, the writ petitions are heard finally.
3. By these petitions filed under Article 226 of the Constitution of India, the petitioners have impugned the orders dated 27th November, 2018, 28th January, 2019 and dated 1st January, 2019 passed by the Education Officer thereby rejecting the proposal submitted by the Management for approval to the appointment of the petitioners to the post of Shikshan Sevak.
4. We have heard learned counsel for the petitioners and the respondents. Mr.Bhavake, learned counsel for the petitioners invited our attention to the judgment delivered by this Court on 10th July, 2017 in Writ Petition No.8587 of 2016 filed by Smt.Munoli Rajashri Karabasappa vs. State of Maharashtra & Ors. along with other connected writ petition. By the said judgment, this Court after considering the Government Resolution and after adverting to the judgment of this Court in Writ Petition Nos.10580 of 2015 with 1145 of 2016 decided on 9th March, 2017 held that the ban would not be applicable to three categories, (1) where the recruitment process is already commenced prior to Government Resolution dated 2nd May, 2012. (2) Insofar as the appointment made for the subjects of English, Maths and Science are concerned (3) where the recruitment

is made to fulfill the backlog of reserved category candidates. The subjects involved in these three writ petitions are English, the candidate belonged to Scheduled Tribe category and the subject Marathi. Learned AGP could not distinguish the said judgment. In our view, the said judgment squarely applies to the facts of this case. We do not propose to take a different view in the matter. We accordingly pass the following order :-

- a). The above writ petitions are allowed. The impugned order dated 27th November, 2018 in Writ Petition No.8166 of 2019, the impugned order dated 29th January, 2019 in Writ Petition No.1318 of 2020 and the impugned order dated 1st January, 2019 in Writ Petition No.1876 of 2020 are quashed and set aside.
- b). The Education Officers are directed to examine the individual cases and grant approval to each of the aforesaid teachers who fall in any of the following three categories set out therein viz. :-
 - i). Where the recruitment process is already commenced prior to the Government Resolution dated 2nd May, 2012;
 - ii). Where the appointments made for filling up vacancies in English, Mathematics and Science;
 - iii). Where the recruitment is made to fulfill the backlog of reserved category candidates.
- c). The approval shall be granted within a period of six weeks

from today.

d). It is made clear that upon grant of approval necessary steps shall be taken by the Education Officer for paying salary to such of the teachers who are found eligible and salaries would be paid to them within a period of twelve weeks from today.

e). Rule is made absolute accordingly.

f). The Education Officer shall include the name of these petitioners in the Shalarth ID within six weeks from today by obtaining appropriate permission from the Deputy Director of Education.

(ABHAY AHUJA, J.)

(R.D. DHANUKA, J.)