

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

8 WRIT PETITION NO.447 OF 2021

1. Dnyandeo s/o Pandharinath Patil
Age: 48 years, Occu: Service as
Assistant Teacher in
Late Vilas Bhosale Primary School,
Udgir, Tq.: Udgir, Dist.: Latur
2. Bhivaji s/o Sugreev Kendre
Age: 32 years, Occu: Service as
Assistant Teacher in
Late Vilas Bhosale Primary School,
Udgir, Tq.: Udgir, Dist.: Latur
3. Ravikant s/o Govindrao Ambre
Age: 48 years, Occu: Service as
Assistant Teacher in
Late Vilas Bhosale Primary School,
Udgir, Tq.: Udgir, Dist.: Latur
4. Suryakant s/o Madhavrao Patil
Age: 48 years, Occu: Service as
Assistant Teacher in
Late Vilas Bhosale Primary School,
Udgir, Tq.: Udgir, Dist.: Latur .. **Petitioner**

Versus

1. The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya, Mumbai-32
2. The Director of Education (Primary),
Maharashtra State,
Central Building, Dr. Annie Besant Road,
Pune — 411 001
3. The Deputy Director of Education,
Latur Division, Latur

4. The Education Officer (Primary),
Zilla Parishad, Latur
5. The Superintendent,
Pay & Provident Fund Unit (Primary),
Latur
6. Shri Shambhu Shikshan Sanstha,
Shambhu Nagar, Latur, Dist.: Latur,
Through its Secretary
7. Late Vilas Bhosale Primary School,
Udgir, Tq.: Udgir, Dist.: Latur
8. Shri. Dattatray Marotirao Ghodke
Age: 76 years, Occup: Pensioner,
r/o: Anisha Niwas, Bhagirathraja Nagar,
Jalkot Road, Tq.: Udgir, Dist.: Latur

.. Respondents

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Advocate for Petitioners: Mr. Pratap G. Rodge
AGP for Respondent Nos.1 to 3: Mr. Y. G. Gujrathi

Advocate for Respondent No.4&5:

Mr. V. C. Patil h/f. Mr. U. B. Bondar

Advocate for Respondent Nos.6&7:

Mr. V. D. Salunke h/f. Mr. G. D. Kale

Advocate for Respondent No.8: Mr. R. D. Biradar

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**CORAM: SMT. SADHANA S. JADHAV &
S. G. DIGE, JJ.**

DATE: 14th MARCH, 2022

ORAL JUDGMENT (Per Smt. Sadhana S. Jadhav, J.):

1. Heard.

2. **Rule.** Rule made returnable forthwith. With the consent of parties, Petition is taken up for final hearing.

3. The present Petition is filed by the teachers of Respondent No.6. The prayer in the Petition is as follows-

"B. By a writ of certiorari or any other appropriate writ or direction in the like nature, the Order bearing Outward No.3353 dated 26.11.2020 passed by the respondent no.2 (Exhibit 'L'), the letter Outward No.3354 dated 26.11.2020 issued by the respondent no.2 to the respondent no.3 for taking action against the petitioners (Exhibit 'M') and the letter dated 16.12.2020 issued by the respondent no.5 to the respondent no.7 (Exhibit 'N') may kindly be quashed and set aside;"

4. It is the contention of the learned Counsel for the Petitioners that a general order was passed on 15.10.1994 granting sanction to various schools to run Classes of 1st Standard to 7th Standard. The present Petitioners are teaching in the school run by Respondent No.6. According to the learned Counsel for the Petitioners, their posts are approved and they are drawing the salary from the exchequer of the Government. The issue before this Court is as to whether Respondent No.6 was authorized to run the classes from 5th to 7th Standard.

5. The learned Counsel for Respondent No. 6, Mr. Salunke, candidly submits that Respondent No.6 had never filed a proposal for sanctioning the classes from 5th to 7th Standard and that it is the Education Department who on their own had granted approval and salary to the teachers in the school run by the Management. The learned Counsel further submits that as on today Respondent No.6 is unable to run the classes from 5th to 7th Standard.

6. The learned Counsel appearing for Respondent No.8 has placed on record the order dated 31.08.2004 (Civil Application No.6513 of 2004 in Writ Petition No.3285 of 2003), passed by the Division Bench of this Court wherein the Court has observed as follows-

"Therefore, in our opinion, the order passed by the Education Officer (Primary), Zilla Parishad, Latur, dated 2nd June 2004 will be required to be stayed and the same is hereby stayed, with a further direction that the applicant i.e. Shambhu Shikshan Sanstha, Ghonshi, shall be permitted to run classes from Ist to IVth Standard only as per the original permission / approval. To that extent, para 4 of the order dated 2nd December 2003, passed in Civil Application No.5690 of 2002, is modified. However, continuation of classes in the school from Ist to IVth

Standard shall be subject to final outcome of the Writ Petition No. 3285/2003."

It is further submitted that, subsequently, the Petition was dismissed.

7. In view of the fact that Respondent No.6 is unable to run the classes from 5th to 7th Standard and there is an order passed by this Court which specifically says that the school shall continue to hold classes from 1st to 4th Standard only, is sufficient to conclude that the Education Department has committed a grave error in asking the school to run the classes from 5th to 7th Standard when they are not approved. The Education Department shall take appropriate steps.

8. At this Stage, learned Counsel for the Petitioners submits that on 25.01.2022 hearing was held in a representation made by the present Petitioners to the Deputy Director of Education (Primary). The Deputy Director of Education (Primary) shall take appropriate decision as far as possible within eight (08) weeks from the date

of receipt of this order and decide the fate of the teachers who have been granted approval without enquiring into the fact as to whether they are teaching from 5th to 7th Standard in the school which was unauthorized to run the said classes.

9. The Deputy Director of Education (Primary) shall also consider the inability of the school to run classes from 5th to 7th Standard as per the representation dated 25.01.2021.

10. With these directions the Petition stands disposed of. Rule is made absolute in above terms.

[S. G. DIGE, J.]

[SMT. SADHANA S. JADHAV, J.]

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