

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

989 WRIT PETITION NO.6249 OF 2022

SHIVAJI KONDIBA INJEWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

AND
991 WRIT PETITION NO.6303 OF 2022

NEETA ABHIMANYU WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Chaudhari Nitin K
AGP for Respondents 1 and 2: Mrs. R.P. Gour

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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 24th NOVEMBER, 2022.**

PER COURT :-

1. In both these matters, respondent nos. 3 and 4 have been served with court notice. Yet, no appearance has been entered.
2. The learned Advocate for the petitioners as well as the learned AGP submit that these two cases would be covered by the order passed by this Court on 02.05.2022 in Writ Petition No. 3336 of 2021 filed by ***Patekar Someshwar Rohidas v. The State of Maharashtra and others*** and connected matters.
3. We have perused the order dated 02.05.2022 passed in

Patekar Someshwar Rohidas (supra). The said order is in the light of an earlier order dated 10.03.2022 passed in Writ Petition No. 9284 of 2021 filed by **Dhanashree Bhausaheb Borkhede v. The State of Maharashtra and others**.

4. The petitioners have put forth prayer clauses (B) and (C) in these two matters as under :

“B] By issuing appropriate Writ, order or directions, hold and declare that, the impugned communication dated. 07.12.2021 issued by Respondent No. 2 is arbitrary and illegal to the well settled position of the law, and hence, the same is liable to be quashed and set-aside, and for that purpose issue necessary orders;

C] By issuing appropriate Writ, order or directions, Respondent No.2 may kindly be directed to grant approval to the transfer of the services of petitioner as Assistant Teacher from the partially (40%) aided division to the fully (100%) aided division of the secondary school run by the management, with all consequential benefits, and for that purpose issue necessary orders;”

5. Considering the above, we do not find any reason to adopt a different view. The petitioners before us would be covered by the order of this Court passed in **Dhanashree Bhausaheb Borkhede** (supra) and **Patekar Someshwar Rohidas** (supra). Hence, in the light of the directions set out in paragraph 15 of the order dated 02.05.2022 passed in **Patekar Someshwar Rohidas** (supra), that

these petitions are partly allowed. The impugned orders are quashed and set aside and the proposals of these petitioners are remitted to the concerned Education Officer on the following conditions :

- (a) Wherever the Managements/respondents in these petitions have not intimated to the Education Officer as regards the available vacancies in their Institutions, such Managements shall forthwith issue communications to the Education Officer, on or before 15.12.2022, setting forth details of the vacancies available with such Institutions.
- (b) While considering the above communications, as also those which may have already been forwarded to the Education Officer by some of the Managements, the issue of surplus teachers vis-a-vis available vacancies in Beed district, based on the seniority and eligibility, will be considered and recommendation of surplus teachers to particular Institutions for absorption, would be considered by the Education Officer.
- (c) While approving transfers from unaided to aided category as per the proposals forwarded by the respondents/Managements, the Education Officer shall consider surplus teachers available and while approving such transfers, would also consider whether, an imbalance in reservation is likely to be created in the aided category owing to such transfers.
- (d) As far as possible, the Education Officer shall ensure that an imbalance is not created in reservation while

approving such transfers to the aided category vis-a-vis vacancies that have occurred in the reserved category on account of superannuation or voluntary retirement, etc..

- (e) After considering the above aspects, the Education Officer shall pass reasoned orders in the cases before him, as expeditiously as possible and preferably on or before 10.02.2023.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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