

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

**CIVIL REVIEW PETITION NO. 11 OF 2022
IN
CIVIL WRIT PETITION NO. 2553 OF 2020**

The Chief Executive Officer & Anr. ..Petitioners
Vs.
Mr. Sanjay Rabhaji Gangurde & Ors. ..Respondents

Mr. Kamlesh Ghumore i/b. Sonali Jdahv, for the Petitioners.
Mr. Sanjeev Sawant a/w. Mr. S. M. Suryawanshi, for the Respondent No.1.
Ms. M. S. Bane, AGP for the Respondent / State.
Mr. Avinash Phadtare (Education Officer), Zilla Parishad, Thane.

**CORAM : C.V. BHADANG, J.
DATE : 28 FEBRUARY 2022**

P.C.

. By this Petition, the Petitioners (original Respondents) are seeking review of the order dated 25 February 2020 passed by this Court in Writ Petition (Stamp) No.11871/2019. By the said order, the Petitioners were directed to absorb the Respondent No.1 (the original Petitioner) as a teacher “in consonance with his

qualification, and in accordance with the applicable provisions, within a period of eight weeks.”

2. I have heard the learned counsel for the parties. Perused record.

3. It is submitted by the learned counsel for the Petitioners that there are several grounds which could not be raised while opposing the said Petition and which go to the root of the matter and are required to be considered. It is submitted that the voluntary abandonment / resignation of the service by the employee was not the only reason for refusing to extend the benefit of the Government Resolution dated 31 July 2009. It is submitted that the Respondent No.1 is not holding the qualification of a Teacher’s Eligibility Test (TET) and therefore, is not entitled to be absorbed. It is also submitted that the concept of para-teachers is ceased to be there after 2014.

4. The learned counsel has tendered a compilation of the Government Resolutions and the list of reliance. It is submitted that now requirement of TET is mandatory and the compliance with the order, under review is impermissible.

5. The learned counsel for the Respondent No.1 has submitted that none of these grounds were raised in the Petition. It is pointed out that these are also not the grounds stated by the Chief Education Officer(CEO) of the Zilla Parishad while refusing to absorb the Petitioner by communication dated 8 March 2019, which was subject matter of challenge in the Writ Petition.

6. I have considered the circumstances and the submissions made.

7. The law relating to the scope and the ambit of Review is too well settled to be re-instated. It is only when the Court finds that there is an error apparent on the face of the record that the Review Petition can be entertained and not otherwise. It is further well settled that the review is not in the nature of an appeal or rehearing of the matter.

8. The facts disclose that the Petitioner was appointed as a para-teacher in the Vasti School at Kamdipada, Taluka Shahapur, District Thane and has worked as such from 2001 to 2009. The Petitioner had sought benefit of the Government Resolution dated 31 July 2009 which was refused by CEO by his communication dated 8 March 2019 on a solitary ground that the Petitioner has voluntarily tendered his resignation on medical ground and therefore, was not

entitled to the benefit of said Resolution. No other ground was mentioned by the CEO while refusing to extend the benefit of said Government Resolution. It is necessary to note that the Review Petitioners (Respondents in the Writ Petition) did not raise any such ground on TET or otherwise. The only ground on which the Writ Petition was opposed was that the Respondent No.1 had voluntarily resigned and was not entitled to the benefit. In my humble view, now, within the limited scope of the review petition, it would not be permissible to consider any other ground which is not the reason given by the CEO nor the ground on which the original petition was opposed. It is further necessary to note that the order dated 25 February 2020 is based on several decisions of this Court as noted in para 3 of the order which includes the decision of the Division Bench in *Laxman Ahadi Vs. State of Maharashtra & Ors.*,¹ which was decided as late as on 3 July 2019. The learned counsel for the Respondent No.1 has pointed out that the Application for Review was taken out in respect of the said Petition, which has been rejected by this Court on 10 August 2021 albeit while refusing to condone delay. Thus the said decision has also attained finality.

9. It is further necessary to note that this Court by the order dated 25 February 2020, had directed the absorption of the Petitioner into “in consonance with his qualification and in accordance with the applicable provisions within a period of eight

1 *Writ Petition No.13100/2017*

weeks.” Considering the over all circumstances, the Review Petition is rejected.

10. At this stage, the learned counsel for the Petitioner states that the Respondent No.1 shall be appointed in accordance with the order passed on 25 February 2020 within two weeks from today, subject to the right of the Petitioner to take further appropriate steps as may be advised.

C.V. BHADANG, J.