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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4990 OF 2018

Umadevi Vasantrao Sonawane & Another ... Petitioners.

V/s.

The State of Maharashtra, through the
Secretary & Another ... Respondents.

WITH

WRIT PETITION NO. 4991 OF 2018

Neelima Rajesh Yadav & Another ... Petitioners.

V/s.

The State of Maharashtra, through the
Secretary & Another ... Respondents.

Mr. N.V. Bandiwadekar, with Mr. Ajinkya Navale, i/b Mrs. A.N.
Bandiwadekar, for the Petitioners.

Mr. N.K. Rajpurohit, AGP, for the Respondents-State.

Mr. Sandeep D. Shinde, for Respondent No. 2.

CORAM : SUNIL B. SHUKRE, AND
AMIT BORKAR, JJ.

DATE : 25th FEBRUARY 2022.

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P.C. :

1. Heard. **Rule.** Rule made returnable forthwith. Heard finally by

consent of the learned counsel for the parties present before the Court.

2. The only ground on which appointment of Petitioner No. 1 (in both the petitions) as Shikshan Sevak in the school of Petitioner No. 2 (in both the petitions) has been rejected is that there were available surplus teachers and before their appointments are made, for filling up the vacancy the Petitioner could not have been appointed. Petitioner No. 2, however, is a minority institute and there is no dispute about this fact and, therefore, the Government Resolution dated 20th June 2014 is not applicable to it. This can be seen from Clause 2 of the Government Resolution which states that the requirement of filling up of a vacancy arising in a school run by a minority institute by appointing surplus teachers is not applicable to such schools. This is also the view taken by the coordinate Bench of this Court in Writ Petition No. 2207 of 2016 decided on 31st March 2016. The facts of this case are squarely covered by the exemption granted in the GR dated 20th June 2014 and the view taken by another Bench of this Court in Writ Petition No. 2207 of 2016. The impugned order, therefore, is bad in law and must go.

3. Both the petitions are allowed in terms of prayer clause (b).

4. We further direct that the names of the Petitioner (in both the petitions) be entered in Shalarth Pranali and salary together with arrears be released to them immediately thereafter.

5. Rule is discharged. No costs.

(AMIT BORKAR, J.)

(SUNIL B. SHUKRE, J.)