

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8066 OF 2021

Smt. Anusaya Rajaram Korda .. Petitioner

v/s.

The State of Maharashtra Through the
Secretary, Edu. Dept. & Ors. .. Respondents

WITH

WRIT PETITION NO.8079 OF 2021

Shri. Magan Vijju Dalvi .. Petitioner

v/s.

The State of Maharashtra Through the
Secretary, Edu. Dept. & Ors. .. Respondents

....

Mr. Sanjiv Sawant, i/b. Samir M. Suryawanshi, for the Petitioners.

Mr. N.C. Walimbe, AGP, for State.

....

**CORAM: NITIN JAMDAR &
AMIT BORKAR JJ.**

DATE : 1 FEBRUARY 2022.

(Through Video Conferencing)

P.C:-

These petitions filed by the Petitioners are seeking a direction that the Petitioners be given benefit of the Government Resolution dated 31 July 2009 issued by the School Education Department. Based on this Government Resolution, contending that

since they were teachers in erstwhile Vasti Schools, are entitled to be appointed in the services of Zilla Parishad as teachers.

2. The Petitioners have stated in the petitions that the Petitioners had worked from 4 April 2002 to 2004 as voluntary teachers in a Vasti School. It is the case of the Petitioners that by a Government Resolution dated 31 July 2009, upon the Vasti School being closed, a scheme of absorption of such teachers in Zilla Parishad primary schools as primary teachers was brought about by the State Government. The Petitioners have also relied upon a decision of the Division Bench of this Court (Aurangabad Bench) in Writ Petition No.2254 of 2010 & Ors. dated 13 October 2010, and subsequent orders passed by this Court, which are annexed to these petitions.

3. The Government Resolution, by which the entitlement of the Petitioners to be absorbed as primary teachers in the Zilla Parishad primary schools arose, was issued as far back in July 2009. Various teachers, as can be seen from the order passed in Writ Petition No.2254 of 2010, had approached this Court seeking absorption in the year 2010 itself. The decision rendered in Writ Petition No.2254 of 2010 has been referred to in the subsequent orders. The Petitioners are seeking similar orders.

4. However, since writ jurisdiction is invoked, the Court

cannot be unmindful of the aspect of delay and latches. On the Petitioners' own showing, they worked in the Vasti School last in the year 2004. When their entitlement arose in the year 2009, nothing stopped the Petitioners, as the other teachers, to approach the Court in the year 2010. Merely because this order of 13 October 2010 is referred to in other petitions, the writ Court is not precluded from questioning the conduct of the Petitioners before it. More particularly, since appointments to a post to be filled in public participation is sought. There is absolutely no explanation for the delay of 13 years from the year 2009. If this aspect is overlooked merely on the ground that orders were passed in the cases of the similarly situated candidates in the past, the basic tenets of writ jurisdiction of delay and latches will become nugatory. On the ground that orders were passed in cases of similarly situated candidates in the past, the Petitioners cannot come to this Court any time they choose and claim that orders can be passed even after 2-3 decades. We have to be mindful of the fact that there is a keen competition for each of these posts. These are not clerical posts, but for imparting education.

5. The learned Counsel for the Petitioners accepts that there are gross delay and latches and prays that the Petitioners be permitted to make representation to the State Government. While we decline to issue any writ of mandamus sought by the Petitioners, we leave it open to the Petitioners to make a representation to the State Government,

and it is for the State Government to consider the same or not. However, this observation does not mean that we have created a fresh cause of action for the Petitioners.

6. In these circumstances, we decline to exercise the writ jurisdiction. The writ petitions are rejected.

(AMIT BORKAR J.)

(NITIN JAMDAR, J.)