

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 4928 OF 2021

1. Nagar Shikshan Mandal, Sindi (Railway)
Tq. Seloo, District Wardha,
through its Secretary/ President.
2. Matoshri Sitabai Talatule Primary School,
Sindi (Railway)
Tq. Seloo, District Wardha,
through its Headmaster.
3. Ku. Archana Pandurang Mude,
aged 42 years, Occ. Service.
4. Ku. Iti Hariprasad Paliwal,
aged 43 years, Occ. Service.
5. Shri Sunil Arun Masram,
aged 34 years, Occ. Service.
6. Shri Tushar Domaji Lokhande,
aged 34 years, Occ. Service.

Petitioner Nos. 3 to 6 are resident
C/o Matoshri Sitabai Talatule Primary School,
Sindi (Railway), Tq. Seloo, District Wardha.

PETITIONERS

.....VERSUS.....

1. State of Maharashtra,
through its Secretary,
Department of School Education
and Sports, Mantralaya, Mumbai – 32.
2. Director of Education,
Directorate (Primary Education),
Maharashtra State, Pune.
3. Deputy Director of Education,
Nagpur Division, Nagpur.
4. Education Officer (Primary),
Zilla Parishad, Wardha.

RESPONDENTS

Shri N.S. Warulkar, Advocate for the petitioners.
Shri D.P. Thakare, A.G.P. for respondent Nos. 1 to 3/ State.
Shri D.R. Bhoyar, Advocate for respondent No.4.

CORAM : A.S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : 19TH JULY, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned Counsel for the parties.

2. It is the case of petitioner No.1 – Education Society that petitioner Nos. 3 to 6 were appointed at petitioner No.2 – School in the years 2005, 2006 and 2012. Approval to the appointment of the said petitioners was sought by submitting a proposal on 19/3/2021 to the Education Officer (Primary). The said proposal has been rejected by the Education Officer on 16/4/2021 by holding that in view of Government Resolution dated 20/6/2018, it was found that the said petitioners had not been appointed in accordance with law. On that count, the approval was refused. Thereafter, on 7/6/2021, the Deputy Director of Education refused to recommend the name of petitioner No.2 – School for receiving grant-in-aid on the ground that there is no approval to the appointment of the four teachers.

Being aggrieved, the petitioners have challenged the aforesaid orders.

3. *Prima facie*, on considering the documents on record, it is seen that while considering the proposal dated 19/3/2021, the Education Officer (Primary) has sought to apply the provisions of Government Resolution dated 20/6/2018. Since it is the case of the petitioners that the appointments were made prior to coming into force of that Government Resolution, their entitlement to approval ought to be considered while considering the position as prevailing on the date of appointment. It is also clear that the approval has been refused without granting any opportunity of hearing to the petitioners.

4. In these facts, the interests of justice would be served by directing the Education Officer (Primary) to re-consider the proposal dated 19/3/2021 by granting an opportunity of hearing to the petitioners. If the Education Officer seeks any further information/ clarification from the petitioners, they would be in a position to supply the same. The question with regard to the entitlement to grant-in-aid can be considered thereafter.

5. In view of aforesaid, the following order is passed :

i. The order dated 16/4/2021 passed by the Education Officer (Primary) is set aside. He is directed to re-consider the proposal dated 19/3/2021 in accordance with law.

ii. Depending upon the outcome of that proposal, the Deputy Director of Education, Nagpur Division, Nagpur is free to consider the claim of petitioner No.2 - School for release of grants in accordance with law.

iii. To facilitate consideration of the proposal dated 19/3/2021, the petitioners shall appear before the Education Officer (Primary) on 1/8/2022. The decision thereon be taken within a period of four weeks from that date.

iv. Rule is made absolute in the aforesaid terms. No costs.

(URMILA JOSHI – PHALKE, J.)

(A.S. CHANDURKAR, J.)

SUMIT