

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

WRIT PETITION NO.3556 OF 2018

- PETITIONERS** : 1. Ku. Vandana Harish Kalambhe,
Aged about 47 years, Assistant
Teacher, Vidya Bhushan Vidyalaya,
Shrihari Nagar No.1, C/o Kishor
Deorao Ghumde, Manewada, Nagpur,
R/o Plot No.31, Chandranagar
(Bhagwan Nagar) behind Naik
Hospital, Nagpur-440027
2. Ku. Olita Chunnilal Mujoriya (Smt.
Olita Madhukar Kherde), Aged about
51 years, Occupation Assistant
Teacher, Vidya Bhushan Vidyalaya,
Shrihari Nagar No.1, C/o Kishor
Deorao Ghumde, Manewada, Nagpur,
R/o 160, Maa Bhagwati Nagar,
Chikhali Layout, Khikhali Road,
Manewada Ring Road, Nagpur –
440034

..VERSUS..

- RESPONDENTS** : 1. The State of Maharashtra through its
Secretary, School Education & Sports
Department, Mantralaya, Mumbai-400
032
2. The Commissioner (Education), State
of Maharashtra, Pune
3. The Director, School Education, State
of Maharashtra, Pune
4. The Deputy Director of Education,
Nagpur Division, Nagpur.

5. The Education Officer (Secondary),
Zilla Parishad, Nagpur
6. Shri Sant Jagoji Maharaj Shikshan
Sanstha, Nagpur through its Secretary
Shri Sudhakar Vyankatrao Kharwade,
Aged about 70 years, Retired Teacher,
R/o Shrihari Nagar No.3, Manewada
Road, Nagpur
7. The Head Master, Vidya Bhushan
Vidyalaya, Shrihari Nagar No.1, Ring
Road, Manewada, Nagpur.
8. Ku. Ujjwala d/o Sukhdas Ganvir,
Aged about 32 years, Occupation
Service, R/o C/o Vinayakrao Kadu,
Vinkar Vasahat, Plot No.110,
Manewada Ring Road, Nagpur.
9. Ku. Suchita d/o Uttamrao Warthi,
Aged about 38 years, Occupation
Service, R/o Susundara, Post
Manikwada, Tahsil Karanja (Ghadge)
District Wardha.

Shri A. Z. Jibhkate, Advocate for the Petitioners.
Shri K. L. Dharmadhikari, AGP for the Respondent Nos.1 to 5.
Shri R. B. Dhore, Advocate for the Respondent No.6.
Ms A. Singh, Advocate for the Respondent No.7.
Shri N. S. Warulkar, Advocate for the Respondent Nos.8 and 9.

**CORAM : SUNIL B. SHUKRE AND
VALMIKI SA MENEZES, JJ.**

DATE : 6th SEPTEMBER, 2022.

ORAL JUDGMENT : (PER : SUNIL B. SHUKRE, J.)

1. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. The order dated 23.08.2022, passed by the Education Officer (Secondary) Zilla Parishad, Nagpur, on the representation of respondent nos.8 and 9, has been placed on record by the learned counsel for the respondent nos.8 and 9, vide Pursis bearing Stamp No.11 of 2022.

4. We have perused the order dated 23.08.2022. It shows that the Education Officer is ready to include the names of respondent nos.8 and 9 in the waiting list, which has been prepared for absorbing surplus teachers in other schools. However, the Education Officer has not actually included the names of respondent nos.8 and 9 because of pendency of this petition and he is waiting for the order to be passed by this Court in this case.

5. If the proposal as mentioned in the order dated 23.08.2022 is approved by this Court, two vacancies in the post of Assistant Teacher would become available and that

would enable the Education Officer to accord approval to the appointments of both the petitioners. After all, the approval was refused earlier only on the ground that the vacancies were not available. It was not refused on the ground that the petitioners did not fulfill the requisite criteria or there was some irregularity in their appointments. So, the question is whether the proposal as submitted by the Education Officer in order dated 23.08.2022 should be accepted by this Court or not. All depends upon the willingness of respondent nos.8 and 9 to accept the proposal. If it is accepted by them, this Court would have no difficulty in green signaling the proposal.

6. The learned counsel for the respondent nos.8 and 9, at this juncture submits that as per the instructions given to him, the said proposal is acceptable to respondent nos.8 and 9.

7. Considering the willingness shown by the respondent nos.8 and 9, we are of the view that this Court requires to approve the said proposal of the Education Officer.

8. We, therefore, direct the Education Officer to include the names of respondent nos.8 and 9 in the waiting list

prepared by him for absorption of the surplus teachers in suitable schools and which shall be done by the Education Officer, within a period of one week from the date of the order.

9. We further direct that upon inclusion of the names of respondent nos.8 and 9 in the waiting list, the approval to the appointments of the petitioners shall be accorded by the Education Officer, within a period of two weeks from the date of inclusion of the names of respondent nos.8 and 9 in the waiting list and thus, we **allow** the writ petition in terms of prayer Clause (i), which reads as follows :

“(i) Direct the Respondent Nos.1 to 5 i.e. State of Maharashtra through its Secretary, School Education & Sports Department, The Commissioner (Education), M.S., Pune, The Director, School Education, M.S., Pune, The Deputy Director of Education, Nagpur Division, Nagpur & The Education Officer (Secondary), Z.P., Nagpur and particularly the Respondent No.5 to accord approval to the appointment of the Petitioners from the date of their initial appointment i.e. 01/07/2000 and

1/07/2002 respectively and include their names in the proposal of release of 20% grant and scheme of 'Shalartha' by a suitable and appropriate writ or directions."

10. Rule is made absolute in above terms.

(VALMIKI SA MENEZES, J.) (SUNIL B. SHUKRE, J.)

TAMBE