

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

125 WRIT PETITION NO.12056 OF 2022

**RAMESH DASHRATHRAO JAMDADE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

AND

129 WRIT PETITION NO.12190 OF 2022

**BALASAHEB MADHUKAR RAUT
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

AND

150 WRIT PETITION NO.448 OF 2023

**DATTA PANDURANG KADAM
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

AND

151 WRIT PETITION NO.449 OF 2023

**PRANITA NAMDEV SHINGARE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...

Advocate for the Petitioners : Shri Nitin K. Chaudhari
AGP for Respondents 1 and 2/State : Shri P.S. Patil, Shri S.G.

Sangle, Shri V.M. Kagne and Shri S.G. Karlekar in the respective petitions.

Advocate for Respondents 3 and 4 : Shri S.M. Gaikwad

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**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 06th February, 2023

Per Court :-

1. In these matters, respondent Nos.3 and 4 have appeared through the counsel and submit that the order passed by this Court on 24.11.2022 in Writ Petition Nos.6249/2022 and 6303/2022 (*Shivaji Kondiba Injewad & Neeta Abhimanyu Waghmare vs. The State of Maharashtra and others*), can be passed in these matters as well.

2. The learned Advocate for the petitioners as well as the learned AGPs submit that these matters would be covered by the order passed by this Court on 02.05.2022 in Writ Petition No. 3336 of 2021 filed by *Patekar Someshwar Rohidas v. The State of Maharashtra and others* and connected matters.

3. We have perused the order dated 02.05.2022 passed in *Patekar Someshwar Rohidas (supra)*. The said order is in the light of an earlier order dated 10.03.2022 passed in Writ Petition

No. 9284 of 2021 filed by ***Dhanashree Bhausaheb Borkhede v. The State of Maharashtra and others.***

4. The petitioners have put forth identical prayer clauses in these matters. Prayer clauses B and C in the first Writ Petition No.12056/2022 read as under:-

- “B] By issuing appropriate Writ, order or directions, hold and declare that, the impugned communication dated 19.10.2022 issued by Respondent No.2 is arbitrary and illegal to the well settled position of the law, and hence, the same is liable to be quashed and set-aside, and for that purpose issue necessary orders;
- C] By issuing appropriate Writ, order or directions, Respondent No.2 may kindly be directed to grant approval to the transfer of the services of petitioner as assistant teacher from the unaided division to the aided division of the secondary school run by the same management, with all consequential benefits, and for that purpose issue necessary orders;”

5. Considering the above, we do not find any reason to adopt a different view. The petitioners before us would be covered by the order of this Court passed in ***Dhanashree Bhausaheb Borkhede (supra)*** and ***Patekar Someshwar Rohidas (supra)***. Hence, in the light of the directions set out in paragraph 15 of the order dated 02.05.2022 passed in ***Patekar Someshwar Rohidas (supra)***, that **these petitions are partly allowed**. The

impugned orders are quashed and set aside and the proposals of these petitioners are remitted to the concerned Education Officer on the following conditions:-

(a) Wherever the Managements/respondents in these petitions have not intimated the Education Officer as regards the available vacancies in their Institutions, such Managements shall forthwith issue communications to the Education Officer, on or before 28.02.2023, setting forth details of the vacancies available with such Institutions.

(b) While considering the above communications, as also those which may have already been forwarded to the Education Officer by some of the Managements, the issue of surplus teachers vis-a-vis available vacancies in Beed district, based on the seniority and eligibility, will be considered and recommendation of surplus teachers to particular Institutions for absorption, would be considered by the Education Officer.

(c) While approving transfers from unaided to aided category as per the proposals forwarded by the respondents/Managements, the Education Officer shall consider surplus teachers available and while approving such transfers, would also consider whether, an imbalance in reservation is

likely to be created in the aided category owing to such transfers.

(d) As far as possible, the Education Officer shall ensure that an imbalance is not created in reservation while approving such transfers to the aided category vis-a-vis vacancies that have occurred in the reserved category on account of superannuation or voluntary retirement, etc..

(e) After considering the above aspects, the Education Officer shall pass reasoned orders in the cases before him, as expeditiously as possible and preferably on or before 31.05.2023.

kps

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)