

SATISH
RAMCHANDRA
SANGAR

Digitally signed
by SATISH
RAMCHANDRA
SANGAR
Date:
2023.04.24
20:22:58 +0530

1.rpw85.22.doc

Shiv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION NO.85 OF 2022
IN
WRIT PETITION NO.8721 OF 2021
WITH
INTERIM APPLICATION NO.18564 OF 2022 IN RPW 85/2022**

Vishnu Dattatraya Thite & Ors.

... Petitioners/
Applicants

Versus

State of Maharashtra,
Through Secretary School Examination
Department and Ors.

... Respondents

**WITH
REVIEW PETITION (STAMP) NO.21691 OF 2022
IN
WRIT PETITION NO.8145 OF 2022
WITH
INTERIM APPLN. ST.NO.21694 OF 2022 IN RPW ST.21691/2022**

Smt. Heena Bhausa Divekar & Ors.

... Petitioners/
Applicants

Versus

State of Maharashtra,
Through Secretary School Examination
Department and Ors.

... Respondents

**WITH
REVIEW PETITION (STAMP) NO.21700 OF 2022
IN**

**WRIT PETITION NO.8143 OF 2022
WITH
INTERIM APPLN. ST.NO.21703 OF 2022 IN RPW ST.21700/2022**

Sandip Bhimrao Patil & Ors. ... Petitioners/
Applicants

Versus

State of Maharashtra,
Through Secretary School Examination
Department and Ors. ... Respondents

**WITH
REVIEW PETITION (STAMP) NO.21705 OF 2022
IN
WRIT PETITION NO.7755 OF 2021
WITH
INTERIM APPLN. ST.NO.19504 OF 2022 IN RPW ST.21705/2022**

Priyanka Shivram Dhobale & Ors. ... Petitioners/
Applicants

Versus

State of Maharashtra,
Through Secretary School Examination
Department and Ors. ... Respondents

Mr. Rajendra Deshmukh, Senior Counsel h/f Mr. Arvind G. Ambetkar
for the Petitioners/Applicants.

Mr. N. V. Bandiwadekar, Senior Counsel with Vinayak R. Kumbhar i/b
Milind Deshmukh for Respondent No.10 in RP No.85/2022.

Mr. P. P. Kakade, GP with Mr. M. M. Pabale AGP, Mr. R. A. Salunkhe
AGP for Respondent Nos.1 to 4 in PPW (St.) No.21705/2022.

**CORAM : S. V. GANGAPURWALA, ACTING CJ &
S. M. MODAK, JJ.**

DATED : 21 APRIL 2023

P.C. :

Interim Application No.18564 of 2022 :

1. Heard Mr. Deshmukh, learned Senior Counsel for the Applicants, Mr. Bandiwadekar, learned Senior Counsel for Respondent No.10 and Mr. Kakade, learned Government Pleader for the Respondent-State.

2. For the reasons stated in the Application, it is allowed. The delay in filing the Review Petition is condoned.

Review Petition No.85/2022, RP (St.) Nos.21691/2022,
No.21700/2022 & 21705/2022

3. The review petitioners seek review of the judgment and order passed by this Court dated 20th June 2022.

4. Mr. Deshmukh, learned Senior Counsel submits that this Court had dismissed the Writ Petition filed by the Petitioners on the count that the name of the Petitioners are not entered in Pavitra Portal.

These petitioners were appointed in 2001-2002. As on the said date there was no Pavitra Portal in operation, the names of the petitioners were not entered in Pavitra Portal as such would not be relevant in present matter. Learned Senior Counsel further submits that in fact the Respondent-institution is a mighty institution and the institution ought to have considered the case of the Petitioners alike with others where the consent terms were filed in earlier Writ Petition bearing Writ Petition No.2549 of 2018 along with connected Writ Petitions.

5. Mr. Deshmukh, learned Senior Counsel further submits that the petitioners had been working since 2016-2017 also and they had also appeared in walk-in-interview, and only because the appointment order is not issued that should not come in the way of the petitioners.

6. Mr. Bandiwadekar, learned Senior Counsel for Respondent No.10-institution submitted that these petitioners were not working in the academic year 2016-2017. If these petitioners were working in the year 2016-2017, their names would have been included in the seniority list. Even it is not the case of the review petitioners, in present review petition, that these petitioners were working in the year 2016-2017.

7. We have considered the submissions in paragraph 8 of the order

under review. We had recorded statement of learned Senior Counsel for the petitioners appearing then, that the names of the petitioners do not appear in Pavitra Portal.

8. In case the petitioners are appointed earlier in point of time then certainly not entering their names in Pavitra Portal will not be relevant. Paragraph 8 of the order would not affect the rights of parties, who are appointed prior to Pavitra Portal in operation.

9. The Writ Petitions were filed basically for regularisation. The petitioners are working since 2009. Some of the petitioners were working even prior to that. The petitioners were appointed through walk in interview and not through regular constituted selection committee. In view of that the question for regularisation does not arise. The petitioners thereafter claimed parity with those persons who had not filed Writ Petition but were kept in the seniority list, pursuant to the consent terms in Writ Petition No.2549 of 2018 and connected Writ Petitions. The relevant paragraph of the consent terms relied upon while deciding Writ Petition and reproduced in the order reads thus :

“3. After the Petitioners would be reinstated as mentioned herein above, the Respondent – Management shall prepare a combined list of all the

Petitioners, working on temporary and Clock House Basis. The said combined seniority list shall also include the name of other Teachers, who have not fled similar Writ Petitions in this Hon'ble Court against the Management, but who were in service under the Respondent – Management till the Academic Year 2016-2017. The seniority of the Petitioners shall be on the basis of the date of their initial appointment under the Respondent – Management. Such a seniority list shall be prepared by the Respondent – Management within a period of 6 weeks from today and thereafter the same shall be published on the website of the Management and it shall also be circulated amongst all the Petitioners for verification and confirmation, and the Petitioners shall sign the said combined seniority list in token of having accepted the same within a period of 15 days.

After the Petitioners would be reinstated as mentioned herein above, the Respondent No.3 shall prepare a combine seniority list from A.Y. 1990 to A.Y. 2016-2017 of all the Petitioners as well as of those Teachers who have not fled the Writ Petitions, but who were actually in service in the A.R. 2016-2017.”

10. For the petitioners to seek parity with those persons, who are agreed to be placed in seniority list, it was incumbent that they are in services in the academic year 2016-2017. From the chart filed along with review petition, it no where transpires that the petitioners were in service in the academic year 2016-2017. In the review petition also, statement is made that the petitioners had appeared in walk in interview but there is no further statement that they were appointed for the year 2016-2017. In the chart produced along with review petition, there are some who were working prior to 2016-2017 and there were some who have worked after 2016-2017. However, the genesis of the consent terms in Writ Petition No.2549 of 2018 with connected Writ Petitions is that those persons working in the academic year 2016-2017, their names were to be kept in seniority list.

11. In the view of that there is no material before us to conclude that the petitioners were in service in the academic year 2016-2017. In absence thereof it would not be possible to accept the contention of the petitioners.

12. In the light of that, no case is made out by the review petitioners. Review petitions are dismissed with no costs.

(S. M. MODAK, J.)

(ACTING CHIEF JUSTICE)