

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO.127 OF 2022

IN

WRIT PETITION NO.265 OF 2018

WRIT PETITION NO.271 OF 2018

WRIT PETITION NO.287 OF 2018

WRIT PETITION NO.273 OF 2018

WRIT PETITION NO.268 OF 2018

WRIT PETITION NO.267 OF 2018

WRIT PETITION NO.270 OF 2018

WRIT PETITION NO.288 OF 2018

WRIT PETITION NO.266 OF 2018

WRIT PETITION (STAMP) NO.34236 OF 2017

WRIT PETITION NO.2864 OF 2022

WRIT PETITION NO.8838 OF 2022

WRIT PETITION NO.8839 OF 2022

Satyajit Mahadev Loke	.. Petitioner
Sunil Narayan Kalpagar	.. Petitioner
Balasaheb Changdev Pawar	.. Petitioner
Shinge Prashant Saybanna	.. Petitioner
Ajay Narayan Rangam	.. Petitioner
Dharane Jagannath Shrimant	.. Petitioner
Rajudas Dhanu Pawar	.. Petitioner
Gensiddh Mahadev Kumbharikar	.. Petitioner
Kiranbaba Uddhav Ghate	.. Petitioner
Sanjay Nagappa Koli	.. Petitioner
Santosh Mohan Gaikwad	.. Petitioner
Riyaz Attar	.. Petitioner
Naushad M. Isak Shaikh	.. Petitioner
Vs.	
The State of Maharashtra,	
School Education and Sports Department and Ors.	.. Respondents

Mr. Suresh Pakhale, with Mr. Saurabh Pakhale and Mr. Nilesh Desai, for the Petitioners.

Ms. Ashwini Purav, AGP for Respondent Nos.1 to 3.

Mr. Vijay Killedar for Respondent No.4.

CORAM : SUNIL B. SHUKRE & R.N. LADDHA, JJ

DATE : 21ST AUGUST, 2023.

[IN CHAMBER – AT 2.15 P.M.]

P.C. :

1. Heard learned counsel for the respective parties.
2. The question now being raised by this review petition is that though the petitioners were entitled for getting sanction to their appointments with effect from the date on which the school crossed the limit of 500 students, which entitlement came from Rule 115(3) of Bombay Primary Education Rules, 1949, *(for short “Rules of 1949”)*, the sanction to the post of the petitioners has been accorded with effect from 1st June 2004, which is contrary to Rule 115(3) of the Rules of 1949. It is also submitted by learned counsel for the petitioners that the concerned Government Resolutions sanctioning the posts in question with effect from 1st June 2004 are also contrary to that extent to Rule 115(3) of the Rules of 1949.
3. We must say that the question so raised by the review petitioners has been broadly considered by this court when it observed in paragraph 7 of the order sought to be reviewed that once the strength of the students crosses 500,

the fact of automatic admissibility of the post of Clerk / Peon cannot be inferred. The Court, however, observed in paragraph 8 that it would not enter into the aspect of the case as to whether or not the petitioners were properly appointed.

4. Considering the above referred observations made in the order sought to be reviewed, we do not find that there is any scope left for this court to review the order on the ground that there is any error apparent on the face of the record or for any other sufficient ground.

5. Apart from what is stated above, we also find that the petitioners have not sought any declaration from this court, with regard to appropriate interpretation of Rule 115(3) of the Rules of 1949, nor the petitioners have specifically questioned the correctness or otherwise of the concerned Government Resolutions on the ground that, to some extent, they are contrary to Rule 115(3) of the Rules of 1949. That being the position, we are of the view that even now the petitioners can file an appropriate writ petition for the purpose of appropriate interpretation of Rule 115(3) of the Bombay Primary Education Rules, 1949 and seek the correctness or otherwise of the concerned Government Resolutions. So, no prejudice, even otherwise, would cause to these petitioners if this petition is dismissed. The petition stands dismissed with the aforestated liberty.

[R.N. LADDHA, J.]

[SUNIL B. SHUKRE, J.]