



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

Writ Petition No.1688 of 2023

1. **Swargiya Radhabai Dorlikar Bahuuddeshiya**
Shikshan Sanstha,
235, New Subhedar Lay Out,
Hudkeshwar Road, Nagpur,
through its Secretary,
Prashant Vitthalrao Dorlikar.

2. **Ravi Madhyamik Vidyalaya,**
Kalmana, Nagpur,
through its Headmaster.

3. **Ku. Pallavi Ishwar Kale,**
Aged 36 years,
Occ- Service.

4. **Ku. Rina Anandrao Nawghade,**
Aged 34 years,
Occ- Service.

The Petitioner No.3 and 4, are
R/o C/o Ravi Madhyamik Vidyalaya,
Kalmana, Nagpur.

... **Petitioners**

Versus

1. **State of Maharashtra,**
through its Secretary,
Department of Education,
Mantralaya, Mumbai.

2. Deputy Director of Education,

Nagpur Division, Nagpur

3. Inquiry Officer/Deputy Director of Education,

Nagpur Division, Balbharti Bhavan,
Dhantoli, Nagpur.

4. The Education Officer (Sec.),

Zilla Parishad, Nagpur.

... Respondents

Shri P.N. Shende, Counsel for Petitioners.

Smt. S.S. Jachak, Assistant Government Pleader for Respondents.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE : 26th SEPTEMBER, 2023.

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

1. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised is to the order dated 1-3-2023 that has been passed by the third respondent acting as Inquiry Officer by which approval has been refused to the appointment of the petitioner Nos.3 and 4 on the post of Assistant Teacher. On hearing the learned counsel for the parties, we find that the Inquiry Officer has considered the Government Resolution dated 28-8-2015 as the basis for coming to the conclusion that the School was not entitled to fill in the posts that are occupied by the petitioner Nos.3 and 4. It is however seen that this Government Resolution dated 28-8-2015 has been now modified by the Government Resolution

dated 8-1-2016. On the basis of this Government Resolution, it is the case of the petitioners that they are entitled for the additional posts.

3. Be that as it may, we find that since the impugned order has been passed on 1-3-2023 without considering the Government Resolution dated 8-1-2016 by which the earlier Government Resolution dated 28-8-2015 has been amended, a case has been made out to direct the third respondent to reconsider the proposal submitted by the petitioners for approving the appointment of the petitioner Nos.3 and 4 and granting them '*Shalarth*' Identification.

4. For the aforesaid reasons, the following order is passed :

(i) The order dated 1-3-2023 passed by the third respondent is set aside.

(ii) The third respondent shall reconsider the matter with regard to cancellation of the approval granted to the petitioner Nos.3 and 4 on 6-12-2021. While doing so, the effect of the Government Resolution dated 8-1-2016 shall be taken into consideration.

(iii) In case the third respondent desires to re-examine the said order of approval dated 6-12-2021, the same shall be done after giving due notice to the petitioners.

(iv) The entire exercise be undertaken and completed within a period of three months of initiating the same.

(v) Needless to state that since the order dated 1-3-2023 has been set aside, the earlier order dated 6-12-2021 approving the

appointment of the petitioner Nos.3 and 4 to continue to operate till any fresh order is passed by the third respondent.

5. Rule is made absolute in the aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)