

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

WRIT PETITION 2919 OF 2016

Smt. Suvarna w/o Sharad Jambhulkar,
Aged 43 years, Occ- Assistant Teacher,
R/o Lashkaribagh,
Nagpur

..... **PETITIONER**

..V E R S U S..

1. The Education Officer, (Secondary)
Zilla Parishad, Nagpur.
 2. The Dy. Director of Education,
Nagpur Division, Nagpur.
 3. The Director of Education,
Nagpur Division, Nagpur.
 4. Nagsen Shikshan Sanstha Bezonbagh,
through its Secretary, Shri Rupak
s/o Eknath Jambhulkar,
R/o 46, Saw Mill Area, Lashkaribagh,
Nagpur.
- **RESPONDENTS**

Mr.O.D.Jain, Advocate for Petitioner.
Mr. S.M. Ukey, Addl. G.P for respondents 1 to 3.
Ms. Rashmi A. Deshpande, Advocate for respondent no.4.

CORAM: **ROHIT B. DEO AND M. W. CHANDWANI, JJ.**

DATE: **12th JULY, 2023.**

ORAL JUDGMENT: (PER ROHIT B. DEO, J.)

1. Heard.
2. Rule. Rule made returnable forthwith.

3. The petitioner is assailing the order dated 30.4.2016 rendered by the second respondent Education Officer (Secondary), Zilla Parishad, Nagpur, purporting to cancel the approval to the appointment of the petitioner and directing recovery of the salary paid to the petitioner for the period from 1.9.2008 to 30.9.2009. The order further observes that since the petitioner has worked from 1.10.2009 till the date of the order, the monetary benefit shall not be recovered for the period he actually worked.

4. We are not required to delve deeper into merits of the order. A coordinate bench has already held in the case of *Devendra Tarachand Gharde Vs. Education Officer (Secondary), Zilla Parishad, Nagpur and others* (Writ Petition No.5170/2012 decided on 14.12.2012) that the Education Officer (Secondary) is not vested power of review. It is further held that the power to cancel or revoke approval granted by the Education Officer can only be exercised by a superior authority.

5. In this situation, we have no option, but to quash and set aside the impugned order dated 30.4.2016 passed by respondent 2 Education Officer (Secondary) Zilla Parishad, Nagpur.

6. We clarify that, if within parameters of law enunciated by this Court, the Deputy Director of Education, Nagpur Division, Nagpur is of the opinion that the approval granted in favour of the petitioner is required to be reconsidered, the said Authority shall proceed on merits, after hearing the petitioner, and in accordance with law.

7. The petition is allowed in the aforesaid terms.

(M. W. CHANDWANI, J.)

(ROHIT B. DEO, J.)

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