

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

**WRIT PETITION NO. 3157 of 2020**

1. Dinesh s/o Kewalram Wadhai.  
Aged about 42 years, Occupation-Service.  
R/o. Bhilewadi Taluka and District Bhandara.
2. Ms. Rekha d/o Kewalram Wadhai,  
Aged about 40 years, Occupation-Service  
R/o Bhilewadi Taluka, District Bhandara.

..... **PETITIONERS**

**...VERSUS...**

1. Deputy Director of Education,  
Nagpur.
2. Education Officer (Secondary),  
Zilla Parishad, Bhandara.
3. Superintendent,  
Pay and Provident Fund Unit (Secondary),  
Bhandara.
4. Mahesh Bahu-uddeshiya Shikshan Sanstha,  
Khamari (Buti), District Bhandara.  
Through its Secretary.
5. Late Shankarrao Kale Junior College, Kardha,  
District Bhandara, through its Principal.

..... **RESPONDENTS**

-----  
Mr. Yash J. Maheshwari, Counsel for petitioners.

Ms Kalyani Deshpande, Assistant Government Pleader for respondents 1 to 3.

Mr. S.D.Abhyankar, Counsel for respondent 4.  
-----

**CORAM :-** ROHIT B. DEO AND MRS. VRUSHALI V. JOSHI, JJ.  
**DATE :-** 27<sup>th</sup> FEBRUARY, 2023.

**ORAL JUDGMENT (Per ROHIT B. DEO, J.)**

**Rule.** Rule made returnable forthwith. Heard finally by consent of learned counsel for the parties.

2. The petitioners are challenging the order dated 09.08.2019, which is communicated to the petitioners vide covering letter dated 22.01.2020, whereby the approval granted to the transfers of the petitioners from un-aided sections to aided sections of the Junior College is cancelled.

3. Perusal of the operative part of the order impugned rendered by the Deputy Director of Education reveals that the cancellation of the approval is predicated on the absence of Mrs. Nalini Kale in the meeting in which the Management recommended and/or decided the issue of transfers. The Deputy Director of Education has found that the exclusion of Mrs. Nalini Kale in the meeting dated 14.08.2014 is in violation of the directions issued by the Assistant Charity Commissioner, Bhandara.

4. This litigation has chequered history which we may only briefly note.

5. The petitioners have been claiming that in the meeting held on 14.08.2014, the Management took a decision to transfer the petitioners from un-aided sections to aided sections of Junior College in vacant and sanctioned posts. Writ Petitions 2219 of 2015 and 2222 of 2015 were preferred seeking a direction that the proposal seeking approval to the transfers be decided. These writ petitions were disposed of vide order dated 18.03.2016 and respondents 3 and 4 in the writ petitions were directed to submit an appropriate proposal in accordance with law and respondent 1- Deputy Director of Education was directed to decide the proposal in the stipulated period.

6. Pursuant to the order dated 18.03.2016 in Writ Petitions 2219 of 2015 and 2222 of 2015, the Deputy Director of Education accorded approval to the transfers vide order dated 29.07.2016.

7. It appears that the order of approval dated 29.07.2016 was cancelled by respondent 1-Deputy Director of Education vide order dated 29.03.2017. The petitioners approached the High Court again, in Writ Petition 2730 of 2017, which came to be disposed of vide order dated 01.02.2018. The order dated 29.03.2017 was set aside on the ground that the petitioners were not given sufficient opportunity of hearing.

8. The Deputy Director of Education heard the petitioners on 09.08.2019 and has arrived at the same conclusion, which is that the approvals to the transfers of the petitioners are unsustainable.

9. We have briefly indicated the course which the litigation has taken only to emphasize that the failure of the Authority to follow the bare minimum principles of natural justice has compelled the petitioners to approach in writ jurisdiction time and again.

10. We note from the memorandum of the proceedings dated 09.08.2019 that the written submissions were preferred, accompanied by several documents, by Mrs. Nalini Kale representing the Trust, on 09.08.2019 and the same were taken into consideration by the Authority for arriving at the conclusion, which he did. The least which was expected from the Authority was to ensure that the copy of the written submissions as well as the documentary material is furnished to the petitioners. It appears that, and there is no demur, the petitioners were not provided copy of the written submissions and other documentary material, with the result that there was no effective opportunity of addressing respondent 1 on the material placed on record by Mrs. Nalini Kale.

11. We have no hesitation in recording that, since the written submissions and documentary material placed on the record on 09.08.2019 has weighed with the Authority, the order impugned is vulnerable and deserves to be quashed.

12. As the situation stands today, the order of approval of the transfers to aided sections rendered on 29.07.2016 continues to hold the field since the order of cancellation is quashed. While Mr. Abhyankar does submit that there is some dispute as to whether the petitioners are working, the material on record does indicate that the petitioners are working. In any event, that is an aspect which will have to be considered by the appropriate Authority.

13. In the result, we quash and set aside the impugned order dated 09.08.2019 and direct that respondent 1-Deputy Director of Education shall revisit the issue after giving effective opportunity of hearing to all the stakeholders within next eight weeks.

In the meanwhile, the petitioners shall be entitled to salary. We direct respondent 5 to submit an appropriate proposal to the respondent 3 for payment of salary, within next week, and if an appropriate proposal is submitted, the appropriate Authority and Education Officer (Secondary) shall take necessary decision within a week thereafter.

14. The writ petition is partly allowed. Rule is made absolute in aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.)

(ROHIT B. DEO, J.)

*Andurkar..*