

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

WRIT PETITION (WP) 1316/2022

WRIT PETITION (WP) 3542/2022

WRIT PETITION (WP) 1316/2022

1. Shri. Mahesh Shivsagar Badole,
Aged – 35 Years, Occu- Service.
2. Ku. Mamta Jagatlal Ambule,
Aged- 38 Years, Occu- Service.

Both the Petitioners are R/O. C/O.
Shri. Mahesh Shivsagar Badole,
Fuliuchandji Bhagat Madhyamik
Vidyalaya, Kosamtondi,
Tah- Sadak Arjuni, Dist-Gondia.

..... PETITIONER(S)

// VERSUS //

1. Deputy Director of Education,
Nagpur Division, Nagpur.
2. The Education Officer (Sec.),
Zilla Parishad, Gondia.
3. Fuliuchandji Bhagat Madhyamik
Vidyalaya, Kosamtondi, Tah-
Sadak Arjuni, Dist- Gondia,
through its Headmaster

.... RESPONDENT(S)

WITH
WRIT PETITION (WP) 3542/2022

1. Shri. Kamlesh Shalikram Thakur,
Aged- 41 Years, Occu- Service.
2. Shri. Sanjay Gyaniram Biranwar,
Aged- 44 Years, Occu- Service.

Both the Petitioners are R/O. C/O.
Shri. Kamlesh Shalikram Thakur,
Haridas Bhawjar Highschool, Gankhira,
Tah- Goregaon, Dist- Gondia.

..... PETITIONER(S)

// VERSUS //

1. Deputy Director of Education,
Nagpur Division, Nagpur.
2. The Education Officer (Sec.),
Zilla Parishad, Gondia.
3. Haridas Bhawjar Highschool,
Gankhira, Tah-Goregaon,
Dist- Gondia,
through its Headmaster

.... RESPONDENT(S)

Mr. P.N. Shende, Advocate for the petitioners
Mr. N.S. Rao, AGP for respondents 1 and 2

**CORAM : ROHIT B. DEO AND
Y.G. KHOBRAGADE, J.J.**

DATED : 07/02/2023

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

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by
consent.

3. The challenge is to the orders dated 22.10.2021 and
27.10.2021 rendered by respondent 1 – Deputy Director of Education,

Nagpur Division, Nagpur whereby the approvals granted by the Education Officer is cancelled.

4. It is common ground that the issue is covered by several decisions of the co-ordinate bench of this Court.

5. We may refer to Writ Petition 1317/2022 (*Gulshan Mahindra Harinkhede and ors. Vs. Deputy Director of Education, Nagpur and ors.*) and the connected matters which were decided vide order dated 17.01.2023. Similar situation was considered in as much as the hearing which was granted by the Deputy Director of Education was not preceded by show cause notice, with the result that the Teachers did not have effective opportunity to show cause against the cancellation of the approval.

6. The Co-ordinate Bench quashed the order passed by the Deputy Director of Education and we are inclined to follow the same force.

7. We, therefore, quash the orders of cancellation of approvals.

8. The effect of such setting aside of the impugned orders would not automatically result in revival of the approvals of the petitioners' services granted by the Education Officer but such approvals

would be dependent on the decision to be taken in terms of this order, as indicated hereinafter.

9. Instead of the Deputy Director of Education revisiting the matter of approvals, we direct the Joint Director, Secondary and Higher Secondary Education, Maharashtra State, Pune to look into the matter and to issue show cause notice(s) to the petitioners if, at all, it is his/her *prima facie* view that such approvals stand vitiated due to fraudulent activities. Requiring the Joint Director to consider the matters, is with the purpose of obliterating any bias that the petitioners right apprehend.

10. The show cause notice(s) must indicate the tentative reasons for taking a relook on the issue of approvals of the petitioners.

11. The petitioners shall have a weeks' time to respond to the show cause notice. Within a period of two weeks thereafter, the Joint Director, Secondary and Higher Secondary Education, Maharashtra State, Pune shall extend an opportunity of hearing to the petitioners and pass the appropriate orders.

12. If the orders are favourable to the petitioners, they will be entitled to continuity of service as if the approvals of services granted to them had never been cancelled. In such an event, they will be entitled to

backwages for services that they claim to have been discharging despite the orders of cancellation.

13. Should the orders be adverse to the interest of the petitioners, they shall immediately step down from the respective posts of Assistant Teachers and the respondent 3 - Schools (in the respective petitions) shall be under an obligation to proceed in accordance with the law for making recruitment on the said posts.

14. If the Joint Director, Secondary and Higher Secondary Education, Maharashtra State, Pune does not issue the show cause notice(s) within a month of receipt of a copy of this order, it will be presumed that there is no reason to proceed against the petitioners and in such eventuality, the order of approvals of the petitioners' services will revive and they shall be entitled to all service benefits.

15. The writ petitions stand disposed of. No costs.

(Y.G. KHOBRAGADE, J.)

(ROHIT B. DEO J.)

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Personal Assistant to
the Hon'ble Judge
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