



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**936 WRIT PETITION NO. 8633 OF 2024
SHAIKH FAIZ AHMED RIYAZ AHMED SHAIKH
VERSUS**

**THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS
AND**

**937 WRIT PETITION NO. 8634 OF 2024
RIYAZ AHMED SHAIKH RAFIQUE MOMIN
VERSUS**

**THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

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Advocate for Petitioners : Mr. Bolkar Yogesh B.
AGP for Respondents/State : Mr. V.M. Jaware
Advocate for Respondent No.6 and 7 : Mr. Lalitkumar S. Mahajan

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 14 AUGUST 2024

PER COURT :

. Heard. Issue notice to the respondents. Learned AGP waives service for respondent nos. 1 to 5. Learned Advocate Mr. Mahajan waives service for respondent no.6 and 7.

2. The petitioners are challenging the order passed by the respondent/Education Officer (Secondary) dated 20.06.2024 Exhibit-A, inter alia refusing to grant approval on the ground that as per the staff approval, only twelve posts were sanctioned against which fourteen individuals are working on the post of Assistant Teachers. It is being pointed out that this was a factually incorrect observation.

The management by the communication dated 10.07.2024 (Exhibit-O) had made an attempt to bring to the notice of the Education Officer the true state of affairs the learned advocate for the petitioners, therefore, submits that the Education Officer may be directed to reconsider the factual aspect and pass a fresh order.

3. Considering the fact that the observations and the ground mentioned in the impugned communication of being factually disputed by the respondent/management, since the Education Officer may not have power and jurisdiction to recall his own order, it would be appropriate that the impugned order is quashed and set aside and he is called upon to take a decision afresh in light of the communication dated 10.07.2024 (Exhibit-O) of the management, touching the aspect of staff approval. The request of the petitioners is innocuous.

4. The writ petitions are allowed partly. The impugned order is quashed and set aside. The matter is remanded back to the Education Officer who shall consider subsequent communication of the management (Exhibit-O) and take a fresh decision on the proposal for grant of approval to the petitioners' appointment.

5. The decision shall be taken as expeditiously as possible and in any case within six weeks.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]