

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7396 OF 2023

Shashank Chandrashekhar Bhingarde ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

**WITH
WRIT PETITION NO. 7436 OF 2023**

Rakesh Rajendra Yadav ...Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. Shrikant D. Patil, for Petitioners in both petitions.

Mr. S.B. Kalel, AGP for Respondent/State in both petitions.

**CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 13 JUNE 2024

P.C.:

. Heard learned counsel for the parties.

2. The Petitioners are working as teachers in higher secondary Ashram School/ Junior College of Respondent No. 5- Institution. The Petitioners have filed these petitions in April 2023. The primary challenge of the Petitioners is to the orders passed by the Hon'ble Minister for Other Backward Bahun Kalyan Vibhag, State of Maharashtra on 9 May 2022. The Petitioners have sought for reliefs

that approval should be granted to their appointments from their date of original appointments and all benefits be given.

3. According to the Petitioners, applications were made to the State Government. On these applications, the Hon'ble Minister heard all the sides and considered the record in detail. The Hon'ble Minister recorded that the Petitioners are working since 8 June 2013 and 22 June 2014 respectively and have worked for more than 8 years and 7 years respectively in the said Ashram school and their cases have to be considered as special cases. The Hon'ble Minister directed that treating the Petitioners' cases as special cases, the Petitioners would be entitled to the pay as higher secondary Shikshan Sevaks for the first 3 years of their service and after the period of Sikshan Sevak, the Petitioners would be entitled as higher secondary teachers. Thereafter, the Hon'ble Minister proceeded to direct that the Petitioners would be absorbed in any vacant post in the higher secondary Ashram School as per the Government Circular dated 3 August 2018. In the meanwhile, recovery was also sought from the Petitioners.

4. The learned counsel for the Petitioners sought to contend that it is not necessary that the Petitioners be absorbed elsewhere in other Ashram schools and the Petitioners need to continue in the same Ashram school where the Petitioners are working.

5. The learned counsel for the Petitioners and the learned AGP have drawn our attention to the Government Resolution dated 26

December 2023 which is placed on record by way of an amendment. It is pointed out that the certain additional posts have now been created on permanent basis in certain Ashram schools which includes the school where the Petitioners are working. Therefore, the Petitioners seek the direction that the Petitioners be not absorbed elsewhere and also recovery need not continue.

6. However, this development has taken place after filing of this petition and placed on record by way of an amendment. As regards the correctness of the stipulation is concerned, regarding absorption in some other schools, the Hon'ble Minister has considered the cases of the Petitioners as special cases and therefore an equitable solution was found. The Petitioners therefore cannot take benefit of part of the equitable arrangement suitable to the Petitioners and challenge the other part. Be that as it may, now in view of subsequent Government Resolution, it is open to the Petitioners to apply to the concerned authority to give benefit to the Petitioners since the Petitioners' school is also included in the said Government Resolution.

7. In light of this position, it is not necessary to keep these petitions pending. We grant leave to the Petitioners to apply to Respondent Nos.2 to 4 by way of representation based on the Government Resolution dated 26 December 2023. It is open to the Petitioners to include in the representation that in view of the subsequent Government Resolution, it is not necessary to recover

any amount from the Petitioners. If such representations are made within a period of four weeks from today then Respondent Nos.2 to 4 to make an endeavor to take final decision thereupon and communicate to the Petitioners within a period of eight weeks thereafter, subject to urgent and time bound commitments.

8. The representations be decided on their own merits. Till decision on the representations is so taken, the position under the interim protection granted to the Petitioners in these petitions will continue.

9. Writ petitions are disposed of.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)