



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

WRIT PETITION NO.4782 OF 2022

1. The President/Secretary
Shivaji Tarun Mandal,
Jalkot, At post Jalkot,
Tq. Tuljapur, Dist. Osmanabad.
2. The Headmaster,
Paravati Girls School,
Jalkot, Tq. Tuljapur,
Dist. Osmanabad.

.....PETITIONERS

VERSUS

1. Shri Kundan S/o Pandit Bhosale
Age: 26 years, Occ : Nil,
R/o At Post. Andur, Tq. Tuljapur,
Dist. Osmanabad
2. The Education Officer (Secondary),
Zilla Parishad, Osmanabad,
Dist. Osmanabad.
3. Bhagyashree Mohan Pawar
Age: 53 years, Occ: Service,
R/o At Post. Jalkot, Tq. Tuljapur,
Dist. Osmanabad.

.....RESPONDENTS

WITH

WRIT PETITION NO.9365 OF 2022

Bhagyashree Mohan Pawar
Age: 53 years, Occ: Service,
R/o At Post. Jalkot, Tq. Tuljapur,
Dist. Osmanabad.

.....PETITIONER

VERSUS

1. Shri Kundan S/o Pandit Bhosale
Age: 26 years, Occ : Nil,
R/o At Post. Andur, Tq. Tuljapur,
Dist. Osmanabad
2. The Education Officer (Secondary),
Zilla Parishad, Osmanabad,
Dist. Osmanabad.
3. The President/Secretary
Shivaji Tarun Mandal,
Jalkot, At post Jalkot,
Tq. Tuljapur, Dist. Osmanabad.
4. The Headmaster,
Paravati Girls School,
Jalkot, Tq. Tuljapur,
Dist. Osmanabad.

.....RESPONDENTS

Mr. S. S. Dudhane h/f Mr. S. V. Bhopi, Advocate for petitioner
in WP 9365/2022

Mr. V. R. Dhorde, Advocate for petitioner in WP 4782/2022

Mr. S. R. Kedar, Advocate for Respondent no.1 in both WP

Ms. S. A. Sambre, Advocate for respondent no.3(Absent)

Mr. V. S. Badakh, AGP for respondent-State

CORAM : ROHIT W. JOSHI, J.

RESERVED ON : 12TH AUGUST, 2025

PRONOUNCED ON : 26TH AUGUST, 2025

JUDGMENT :-

. The petition is taken up for final hearing with consent
of parties as also in terms of order dated 31.07.2025, whereby

parties were put to notice that the petition will be heard finally at the stage of admission.

2. The petitioner no.1 in Writ Petition No.4782 of 2022 is a public Trust duly registered under the Maharashtra Public Trust Act, 1950, which works in the field of education (hereinafter referred to as 'management'). It runs a school named Paravati Girls School, Jalkot, Tq. Tuljapur, Dist. Osmanabad. Petitioner no.2 is Headmaster of the said school. The respondent no.1 is the employee, whose services came to be terminated by the petitioner against which he had preferred appeal before the learned School Tribunal which came to be allowed. The respondent no.3 was appointed against the post which fell vacant on account of termination of services of respondent no.1. The respondent no.1 was appointed as Assistant Teacher in petitioner no.2/school vide order dated 01.09.2007. At the relevant time the respondent no.1 was holding qualification of HSSC.

3. The respondent no.2/Education Officer had granted approval to the appointment of petitioner vide order dated 21.10.2008 with effect from the date of his initial

appointment i.e.01.09.2007, on the condition that the respondent no.1 shall acquire the requisite qualification within a period of three years. It will be pertinent to mention that the respondent no.1 belongs to Scheduled Tribes category and his appointment on the post of Assistant Teacher was made against a post reserved for the said category. It will also be pertinent to mention here that the appointment of the respondent was made on probation. It will be pertinent to mention here that the requisite qualification for appointment to the post of Assistant Teacher in Primary School as specified under Schedule-B in the Maharashtra Employees of private schools (Conditions of Services) Rules, 1981 (hereinafter referred to as 'MEPS Rules'), was SSC-D.Ed at the relevant time. The respondent no.1 was not holding the qualification of D.Ed. The respondent no.1 has acquired D.Ed qualification in the year 2013.

4. In the meantime, as per the petitioners, the respondent no.1 has tendered his resignation on 30.07.2010, since he was facing certain medical issues and also because he could not acquire the requisite qualification of D.Ed., within the

stipulated period of three years as per the order of approval dated 20.08.2008. The petitioners contend that the said resignation dated 30.07.2010, was accepted by the School Committee vide resolution dated 07.08.2010 and by the management on 15.08.2010.

5. The respondent no.1 filed appeal before the School Tribunal alongwith an application for condonation of delay being Miscellaneous application no.4 of 2016 in filing appeal on 01.10.2015. The application for condonation of delay was rejected vide order dated 01.12.2016, passed by the learned School Tribunal. The respondent no.1 challenged the said order by filing a petition before this Court being Writ Petition No.3409 of 2017.

6. The said petition was allowed vide judgment and order dated 13.09.2017. The order rejecting application for condonation of delay was quashed and the delay caused in filing of appeal was condoned on the condition that the petitioner will not be entitled to any monetary benefits for period from 01.10.2010 to 30.09.2015.

7. Pursuant to the order passed by this court condoning

the delay, appeal preferred by the respondent came to be registered as appeal no.46 of 2017. It is the case of the respondent that he was appointed in the petitioner no.2/school against a clear vacant post of Assistant Teacher vide appointment order dated 26.02.2007 with effect from 01.03.2007. He has stated in the appeal that when he was appointed in service, the school was receiving 40 percent grant. He states that there was a vacancy for candidate belonging to Scheduled Tribes category and in order to receive 100 percent grant-in-aid, it was necessary to fill up the said post which was reserved for candidate belonging to Scheduled Tribes category. He states that he was accordingly appointed on the said post and thereafter the school was admitted to 100 percent grants.

8. The respondent no.1 has alleged that after 01.09.2010, the petitioner tried to change the muster roll and also prevented him from signing the muster roll. He states that in the meantime, he had developed some medical problems and was required to undergo prolonged treatment. He has stated that after having undergone the treatment, when he returned

to the school for joining services, the petitioner nos.1 and 2 stated that since he was on long leave, he will not get salary for the said period unless the leave is got approved by following prescribed procedure. He states that the petitioners told him that his signature was needed on a blank stamp paper of rupees 100/- and accordingly obtained the blank stamp paper of rupees 100/- signed by him. It is his contention that the said stamp paper was misused to create a resignation letter and on that basis, his services came to be terminated by way of 'otherwise termination'. With such allegations, the said appeal came to be filed.

9. The petitioners filed written statement opposing the appeal. It is stated in the reply that the respondent was appointed on probation for a period of two years within which he was required to acquire D.Ed qualification. It is stated that he could not acquire the said qualification within the probation period of two years. The petitioners stated that they had again forwarded proposal for approval which was initially granted for a period of two years, was extended by a period of one year. The petitioners stated that since, the respondent

could not acquire D.Ed qualification within the extended period of one year, he had issued resignation letter dated 30.07.2010 in his own handwriting stating that he was leaving the job with effect from 01.09.2010. The petitioners have stated that the resignation was accepted by resolutions dated 07.08.2010 and 15.08.2010 passed by the School Committee and the management. It was stated that after the respondent no.1 had tendered his resignation, the respondent no.3 was appointed in his place and therefore, she was also necessary party to the appeal. The petitioners also stated that after tendering his resignation, the respondent had worked with Kulaswamini Prathamik Vidya Mandir, Tuljapur from 02.12.2013 to 29.03.2014 and had also made application seeking appointment at Basvaraj Prathmik Shala on 04.10.2013. The petitioners summed up the written statement stating that the respondent did not have the requisite training qualification and had therefore voluntarily tendered resignation.

10. The learned Tribunal has allowed the appeal preferred by the respondent no.1 vide judgment dated 08.02.2022. The

otherwise termination of services of respondent no.1 with effect from 01.09.2010 is quashed, resignation of the petitioner is declared to be illegal and the petitioners were directed to reinstate the respondent no.1 on the post of Assistant Teacher with effect from the date of his termination i.e. from 01.09.2010. The learned Tribunal has also awarded 50 percent back wages to the respondent no.1 from 01.10.2015 till the date of reinstatement.

11. The learned Counsel for the petitioners contends that the learned Tribunal has erred in disbelieving the case of the petitioners with respect to the resignation tendered by the respondent no.1. He states that the respondent no.1 had tendered resignation in his own hand writing since, he could not acquire the requisite training qualification. He contends that signature on the resignation letter was admitted by the respondent no.1 in the memorandum of appeal itself and the statement in the written statement that the resignation was in handwriting of respondent n1 was also not disputed by filing counter affidavit or rejoinder. He also draws attention to the application dated 27.01.2014, submitted by the respondent

no.1 to the petitioner no.2 seeking copy of his service book wherein he has admitted about issuance of resignation letter dated 30.07.2010 and contends that learned Tribunal has erred in not advertng to the said letter in which fact of tendering resignation is expressly admitted by the respondent no.1. Apart from this, the learned Advocate argues that the learned Tribunal has erred in granting relief of back wages despite the fact that the respondent no.1 was not holding requisite qualification for being appointed on the post of Assistant Teacher. In support of this contention, the learned Advocate has placed reliance on judgment of this Court in the matter of *Vaijanath Tatyrao Shinde Vs. Secretary and others* reported in *2006 (6) Mh.L.J 682, Maharashtra Seva Sangh Solapur VS Shaikh Jamal Chand*, reported in *2009 (4) Mh.L.J 198* and *Late Sanjay Gandhi Shikshan Prasarak Mandal, Wangi Vs. Deputy Director of Education, Amrawati*, reported in *2022 (5) Mh.L.J 193*.

12. Per Contra, the learned Advocate for the respondent contends that the learned Tribunal has recorded cogent reasons for disbelieving the case of resignation set up by the

petitioners. He contends that it is inconceivable that any Teacher can tender resignation on a stamp paper. The learned Advocate submits that the resignation is not tendered by registered post as is contemplated under Section 7 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (hereinafter referred to as 'MEPS Act'). He also contends that since the respondent was a permanent employee, the notice ought to have been sent three months prior as per Rule 40 of the MEPS Rules and the case of resignation cannot be accepted since the period is of only one month. He further contends that although, it is stated that the respondent had tendered resignation with effect from 01.09.2010, he has worked in the school beyond the said date, which will negate the case of the petitioners with respect to the alleged resignation. He further contends that a finding of fact is recorded by the learned Tribunal on appreciation of material on record which should not be interfered with in exercise of jurisdiction under Article 227 of the Constitution of India.

13. As regards the qualification of D.Ed, the contention of

the learned Advocate is that the respondent no.1 had acquired D.Ed qualification in the year 2013. The learned Advocate has placed on record a circular dated 14.06.2010, issued by the Government of Maharashtra under which the period for acquiring training qualification for Shikshan Sewaks belonging to Scheduled Castes and Scheduled Tribes is extended up to 31.03.2015. He points out that the said circular is applicable to Teachers belonging to Scheduled Castes and Scheduled Tribes, who did not hold the requisite qualification while they were appointed in service. He contends that the respondent no.1 has acquired requisite qualification before the cut off date i.e. 31.03.2015 and therefore, the contention of the petitioners that order of reinstatement cannot be passed for want of requisite qualification is liable to be rejected.

14. As regards the resignation letter, the learned Tribunal has considered the material on record and has recorded a finding of fact that the resignation letter is not in accordance with Section 7 and Rule 40 of the MEPS Act and Rules. The learned Tribunal has recorded reasons in support of said finding. The learned Tribunal has also dealt with the material

while arriving at the said finding. This Court does not see any reason to interfere with the finding recorded by the learned Tribunal.

15. As regards the next contention with respect to qualification of the respondent, it is well settled that a Teacher who does not possess the requisite qualification, is not entitled to relief of reinstatement in service, even if termination of service is not in accordance with law. No Court or Tribunal can pass order of reinstatement in service in favour of any Teacher who does not hold the requisite qualification. It is therefore, necessary to examine as to whether the respondent no.1 was holding the requisite qualification for appointment to the post of Assistant Teacher in a primary school. Rule 6 of the MEPS Rules provides that minimum qualification for post of teaching and non teaching staff in private schools shall be as specified in Schedule-B. First entry in Schedule-B pertains to qualification of primary teachers. The said entry provides that appointment of teachers in primary school shall be made by nomination from candidates holding basic qualification of SSC examination and

Diploma in Education (D.Ed). Thus, SSC-D.Ed is the minimum qualification for appointment to the post of Primary Teacher.

16. It needs to be mentioned that the said provision is amended with effect from 22.06.2017. However, since, the appointment of the respondent no.1 is on 01.09.2007, the unamended provision will have to be considered. Admittedly, as on the date of termination of his services, the respondent no.1 was not holding the requisite qualification of D.Ed. He has acquired the said qualification in the year 2013 almost after a period of three years from the date of termination of his services. The respondent no.1 will, therefore, not be entitled to the relief of reinstatement in service since, he did not hold the requisite qualification in view of the law laid down by this Court in the matters of ***Vajanath Shinde, Maharashtra Seva Sangha*** and ***Late Sanjay Gandhi Shikshan Prasarak Mandal, (supra)***. It will be pertinent to mention here that Section 5 of the MEPS Act also provides that the management shall fill up every permanent vacancy in a private school by appointment of person duly qualified to fill such vacancy. With respect to importance of requisite

qualifications for a teaching post, this Court has in the matter of ***Vajanath Shinde (supra)*** referred to judgment of the Hon'ble Supreme Court in the matter of ***Shitala Prasad Shukla Vs. State of UP*** reported in ***AIR 1986 SC 1859***, wherein it is observed as under:

There is no provision which empowers the college to allow any unqualified person to teach or to appoint him as such in anticipation of his disqualification being removed in future. Till the exemption was granted appellant was not even a teacher in the eye of law though he was allowed to teach by the indulgence of the college authorities. The disqualification was removed only on July 23, 1963 when the Board granted the exemption.

In view of the aforesaid, it is observed in paragraph 9 as under:

9. In this view of the matter, we hold that for a valid appointment of a primary school teacher, a person must possess educational so also the training/teaching qualification. No person can be legally appointed who does not hold training qualification. Hence, service rendered as an untrained teacher will not qualify for being counted to determine seniority.

Similar view is taken in the matter of ***Maharashtra Seva Sangh (supra)***, particularly, in paragraph 13, this Court has

held as under:

13. However, that does not mean that the institutions cannot appoint in junior colleges a person who is not a trained teacher (i.e. "B.Ed") and that the Education Department cannot relax the qualifications. Clause (1) (d) of Part III of Schedule 'B' of the MEPS Rules makes it clear that if persons possessing the prescribed qualifications referred to in clauses (a) and (b) are not available, the Director may relax the qualifications on the basis of the merits of each case and the person in whose favour relaxation is allowed shall be appointed purely on temporary basis. Such appointee, however, cannot claim benefit of "deemed permanency" under sub-section (2) of section 5 of the MEPS Act. A person appointed by relaxing the qualification as contemplated by clause (1) (d) of Part III of Schedule 'B' is not entitled to claim permanency merely because he was assured by the institution that he would be continued till he acquires the prescribed qualifications. Even if there is such assurance or undertaking given by the institutions, such assurance or undertaking would not bind the institution indefinitely and particularly in the cases where the trained teacher becomes available or the workload is not available. In the present case the petitioner-institution has denied that in 1995-96 respondent No.1 was appointed as full timer in a clear permanent vacancy. It appears that there was reduction in workload and, therefore, he was appointed on clock hour basis.

Perusal of the aforesaid portion will demonstrate that even if management grants assurance to an employee, who does not hold valid qualification that his services will not be

terminated till he acquires the requisite qualification, such understanding or undertaking given by the management is not binding on it indefinitely.

17. The ratio of the said judgment is applicable to the facts of the present case. In the present case, the respondent no.1 was not holding the requisite qualification on the date of his appointment. The appointment order is issued on probation. However, in the order of approval, specifically records that approval was granted on the condition that the respondent would acquire qualification of D.Ed within a period of three years. The respondent was appointed in service with effect from 01.03.2007. The period of three years thus expired on 28.02.2010. The respondent has admittedly not acquired the qualification of D.Ed within the said period. According to the respondent, his services came to be terminated with effect from 01.09.2010. The respondent was not holding requisite qualification even on the said date. Perusal of the D.Ed mark sheet of the respondent will demonstrate that he had appeared for final examination of D.Ed in September-October 2012 and the mark sheet was issued on 02.01.2013. Thus, the

respondent acquired the requisite qualification on 02.01.2013, i.e. after a period of around 2 years and four months from the date of termination of his services.

18. Similar view is taken by this Court in the matter of ***Late Sanjay Gandhi Shikshan Prasarak Mandal (supra)***, wherein it is held that a Teacher who does not hold requisite qualification as on the date of appointment, cannot be treated as a regularly appointed Teacher and therefore, he is not entitled to seek relief of reinstatement in service even if he acquires the qualification subsequently. This Court had allowed the petition filed by the management and had quashed the order of reinstatement in service passed by the learned School Tribunal on the ground that the employee was not holding the requisite qualification as on the date of his appointment. In paragraph 26 and 27 of the judgment, this Court has held as under:

26. The Tribunal further committed grave error in assuming that eligibility qualification to hold the post can be acquired subsequently. It is trite law that the employee must be eligible to hold the post as on the date of the appointment if not on the date of the

advertisement, as the case may be. The fact that the employee who was appointed on 25-10-2004 acquired the requisite Masters Degree on 26-6-2006, is hardly significant. An employee, who was not qualified as on the date of the appointment, cannot be treated as regularly appointed with effect from the date on which he acquired the eligibility qualification, considering the scheme of the Act and the Rules framed thereunder.

27. The judgment impugned is manifestly erroneous. The employee was not appointed in accordance with the statutory scheme, he was further not qualified to hold the post as on the date of the appointment, and was not entitled to any relief in appeal.

Thus, in the light of aforesaid judgment, the fact that the respondent has acquired the requisite qualification subsequent to the date of his appointment cannot come to his rescue

19. It will be pertinent to mention that in the present case, the respondent was granted 3 years time to acquire D.Ed qualification. It is not in dispute that the petitioner has failed to acquire said qualification within the stipulated period.

20. The learned Advocate for the respondent has produced

on record a circular dated 14.06.2010, issued by the Department of Education and Sports of the Government of Maharashtra. The said circular makes a reference to Section 23 (2) of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as 'RTE Act'). The said circular states that the requisite qualification for appointment to the post of Primary Teacher in a private school is SSC-D.Ed. However, candidates holding qualification of HSSC belonging to Scheduled Castes and Scheduled Tribes category are appointed on the post of Primary Teacher, as untrained Shikshan Sewaks. It is stated in the resolution that there are innumerable such untrained Shikshan Sewaks belonging to Scheduled Castes and Scheduled Tribes working in various primary schools. In this context, the State Government has by referring to section 23 (2) of the RTE Act provided that untrained Shikshan Sewaks belonging to Scheduled Castes and Scheduled Tribes should be granted time till 31.03.2015 for acquiring the requisite qualification prescribed for the post of Primary Teacher in private schools.

21. The RTE Act has come into force with effect from

01.02.2010. The said Act deals with elementary education. The said act is brought on statute book with a view to provide elementary education to children below the age of 14 years. The said Act aims to achieve the objective of Article 21-A of the Constitution of India. The Act deals with elementary education, which is defined under Section 2(f) to mean education from 1st to 8th standard. Chapter IV of the Act deals with responsibilities of schools and Teachers. Section 23 of the Act which is included in chapter IV provides that any person possessing such minimum qualification as is prescribed by Academic Authority, authorized by the Central Government shall be eligible for appointment as a Teacher in a school which is recognized for imparting elementary education. The National Council for Teachers' Education (NCTE) is notified as the Academic Authority by the Government of India. Thus, academic qualifications prescribed by (NCTE) are the requisite qualifications for appointment of a Teacher in a school imparting elementary education as per RTE Act.

22. Section 23(2) provides that if a State does not have adequate institutions offering courses or training in Teacher

Education or does not have requisite number of Teachers possessing minimum qualifications as prescribed under Section 23(1) of the Act, then the Central Government may if it deems necessary, relax the minimum qualifications prescribed under Section 23(1) by issuing appropriate notification in this regard for a period not exceeding five years. Thus, the authority to relax the requisite qualification as prescribed under Section 23(1) is vested with the Central Government. The power under section 23(2) is to grant relaxation with respect to qualifications prescribed under Section 23(1) of the RTE Act.

23. Perusal of scheme of Section 23(1) and (2) of the RTE act will indicate that the Academic Authority nominated by Central Government is competent to prescribe qualifications for appointment of Teachers in schools imparting elementary education. The power to relax such qualifications for appointment of Teachers is vested with the Central Government. Such a relaxation can be granted for a period of five years. It needs to be emphasized that the power of relaxation is with respect to the qualifications prescribed

under section 23(1) by the Academic Authority.

24. The circular dated 14.06.2010 is issued by the State Government and not by the Central Government. The State Government is not competent to grant relaxation for acquiring qualifications prescribed under Section 23(1). Apart from this, the power of relaxation under Section 23(2) is available only with respect to qualifications prescribed under Section 23(1) of the RTE Act. The said power cannot be invoked to relax qualification prescribed under other laws such as the MEPS Act and the Rules.

25. It will be pertinent to mention that the NCTE has prescribed requisite qualifications for appointment of Teachers in elementary schools vide notification dated 23.08.2010. The requisite qualification for appointment of Teacher for classes 1st to 5th i.e. primary school is SSC-D.Ed with Teachers eligibility test (TET) to be conducted by the appropriate Government. Thus, in addition to the qualification of SSC-D.Ed, requirement of clearing TET is prescribed in addition under the said notification. It will be pertinent to mention that the Government of Maharashtra has framed Rules in exercise

of rule making power under Section 38(1) and (2) of the RTE Act, named the Maharashtra Right Children to Free and Compulsory Education Rules, 2011. The said Rules have come into force with effect from 11.10.2011. Rule 15(2) provides that minimum qualification prescribed by the Academic Authority shall be applicable for every school imparting elementary education. Rule 16 speaks about relaxation of minimum qualifications as per Section 23(2) of the RTE Act. It provides that in the event the State Government is of the opinion that requisite number of Teachers holding the qualifications prescribed under Rule 15 are not available, the State Government shall make representation to the Central Government for relaxation of minimum qualifications.

26. Perusal of Rule 16 will demonstrate that the power to grant relaxation is vested with the Central Government and not with the State Government. Rule 17 of the Rules provides that the State Government shall make endeavour to ensure that all Teachers working in different schools imparting elementary education who do not hold the minimum qualification prescribed under Rule 15 shall possess the said

qualification within a period of five years from the date of commencement of the RTE Act.

27. A perusal of Rule 16 will also indicate that power to grant relaxation is vested only with the Central Government and not the State Government. The circular dated 14.06.2010 relied by the respondent is contrary to Section 23(2) of the RTE Act and also Rule 16 of the Maharashtra RTE Rules, which do not enable the State Government to grant in relaxation for the qualification prescribed under Section 23(1). Apart from this, Section 23(2) and Rule 16 of the Maharashtra RTE Rules can be invoked to relax the qualifications prescribed under Section 23(1) of the RTE Act and Rule 15 of the RTE Rules. Section 23(2) cannot be invoked to grant relaxation for qualifications prescribed under the MEPS Act.

28. In view of the aforesaid, the Circular dated 14.06.2010 cannot be relied upon by the respondent to contend that he was entitled to acquire D.Ed qualification on or before 31.03.2015, as provided under the said Circular and that his services could not be terminated or that relief of reinstatement

in services cannot be denied to him only because he did not hold D.Ed qualification as on the date of his appointment on 01.03.2007 or on the date of his termination on 01.09.2010.

29. The contention of respondent that he had acquired the requisite qualification within the stipulated period as per the circular dated 14.06.2010 and therefore, his services could not be terminated for want of requisite qualification is liable to be rejected since, the said circular itself is contrary to the Section 23 of the RTE Act and Rule 16 of the Maharashtra RTE Rules.

30. Thus, on the date of appointment as also on the date of termination of the services, the respondent/employee was neither holding the qualification prescribed under the MEPS Act and Rules and also under Section 23(1) of the RTE Act. As stated above, the circular granting relaxation issued by the State Government is obviously without authority and cannot be relied upon by the respondent/employee

31. In view of the aforesaid, it is clear that the respondent was not holding the requisite qualification also on the date of his appointment or on the date of his termination. He did not acquire the requisite qualification within a period of three

years as granted by the Education Officer in the order of approval dated 21.10.2008. The learned Tribunal has therefore erred in granting relief of reinstatement in service to the respondent. The order of reinstatement is clearly in the teeth of the judgments of this Court and also of the Hon'ble Supreme Court as referred above.

32. In view of the aforesaid, both these Writ Petitions deserve to be allowed and are allowed accordingly, in the following terms:

- a. Judgment and Order of School Tribunal is quashed and set aside.
- b. Appeal bearing number 46 of 2017 preferred by the respondent is dismissed.

33. Civil Applications, if any, stand disposed of.

(ROHIT W. JOSHI, J.)