



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

**CIVIL APPLICATION NO.267 OF 2025
IN
RAST NO.35350 OF 2024
WITH
REVIEW APPLICATION STAMP NO.35350 OF 2024
IN
WRIT PETITION NO.2331 OF 2024**

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1. The State of Maharashtra
Through its Principal Secretary,
Other Backward Bahujan Welfare Department,
Mantralaya, Mumbai-32.
Smt. Vinita Ved Singhal,
Email: sec.vjntobcsbcw@maharashtra.gov.in
Mob.: +91-9867799380
2. The Director,
Other Backward Bahujan Welfare,
Maharashtra State, Pune.
Dnyaneshwar Kondibhau Khilari,
Email: dvjntobcsbcwpune@gmail.com
Mob.: +91-9967745460
3. The Regional Deputy Director,
Other Backward Bahujan Welfare (Regional),
Latur, Dist. Latur.
Dilipkumar Vasaram Rathod,
Email : rddbahujanklatur@gmail.com
Mob.: +91-9764885953
4. The Assistant Director,
Other Backward Bahujan Welfare,
Latur, Dist. Latur.
Shivkant Nagorao Chikurte,
Email : abdklatur@gmail.com
Mob.: +91-9689494076.

Applicants
(Org. Resp. Nos. 1 to 4)

VERSUS

1. Yogesh s/o Jangalrao Jadhavar,
Age: 36 years, occu: Service,
at Higher Secondary Teacher,
at Sambhajirao Kendre Higher Secondary,
Ashram School, Chincholiraowadi,
Tq. & Dist. Latur. (Org. Petitioner No.2)
2. Jijamata Bahuddeshiya Shikshan
Prasarak Mandal, Patoda (Bk.),
Tq. Jalkot, Dist. Latur Sanchalit,
Sambhajirao Kendre Higher Secondary
Ashram School, Chincholiraowadi,
Tq. & Dist. Latur.
Through its Head Master. (Org. Respondent No.5)

.....Respondents

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AGP for Applicant-State : Mr. A. R. Kale

**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

Dated : January 10, 2025

ORDER:- (Per S. G. Chapalgaonkar, J.)

1. The applicants seeks review of the order dated 06.05.2024 passed by this Court in Writ Petition No.2331 of 2024, whereby the applicants/original respondent No.1 to 4 were directed to take requisite steps for implementation of the order dated 13.04.2023/16.04.2024 passed by Hon'ble Minister within a period of three weeks.

2. The Review Application is accompanied with Civil Application seeking condonation of delay caused in filing the Review Application.

3. Mr. A. R. Kale, learned AGP appearing for the applicants submits that respondent no.1(original petitioner no.2) and one another had filed Writ Petition seeking directions to grant approval to their appointments as Higher Secondary Teachers with effect from their date of initial appointments and release of pay and arrears of salary in tune with decision taken by Government Resolution dated 23.03.2022 and 26.12.2023 in respect of similarly situated employees. During pendency of the aforesaid Writ Petition, respondent had filed Civil Application No.4642 of 2024 in WP 2331 of 2024 contending that during pendency of the Writ Petition, the Hon'ble Minister decided their appeal vide order dated 13.04.2023 and issued directions that service of petitioners be approved and release the salary along with arrears. Consequently, they sought directions to implement the order dated 13.04.2023. In pursuance to aforesaid application, this Court observed and directed in paragraph no.6 as under :-

“Taking into consideration the order passed by the Hon'ble Minister, which can be said to have been attained finality, now the implementation has to be done in view of the statement made in respect

of petitioner no.2 only. The steps those are required for implementation of the said order dated 13.04.2023 be undertaken within a period of three (3) weeks from today by respondents no.1 to 4 in respect of petitioner no.2-Yogesh Jangalrao Jadhavar.”

4. Consequently, disposed of the Writ Petition vide order dated 06.05.2024 which is subjected to present review.

5. Mr. Kale, learned AGP would submit that, in fact, very order dated 13.04.2023 passed by Hon’ble Minister has been subsequently modified on 19.06.2024 in view of the Government Resolution dated 26.12.2023. The previous order was passed by the Hon’ble Minister considering Government Resolution dated 23.03.2022, which has no application in the facts of the present case. According to him, due to aforesaid subsequent events, Minister’s order dated 13.4.2023 could not be implemented as per order passed by this Court. Therefore, he seeks review and recall of the order dated 06.05.2024 passed by this Court.

6. We have considered the grounds of review along with the reasons for condonation of delay. Apparently, review of the order dated 06.05.2024 is solicited on the basis of subsequent events. This Court while passing order dated 06.05.2024 noted contentions of the parties that Hon’ble Minister has already redressed grievances of the petitioners in Appellate Jurisdiction and passed the order dated

13.04.2023 eventually disposed of the Writ Petition with further directions to respondent authorities to implement order of the Minister within the stipulated period. Evidently, this Court has not decided anything as to the rights of the parties and simply expedited implementation of the order passed by the Hon'ble Minister. Now, it is contention of the State authorities that the Hon'ble Minister has withdrawn or modified the order dated 13.04.2023 that too after disposal of the Writ Petition. We find no reason to entertain the prayer for review based on subsequent events.

7. The parameters for exercise of the review jurisdiction are well compassed under Order 47 Rule 1 of Civil Procedure Code. In **case of Lily Thomas v. Union of India, AIR 2000 SC 1650**, Observed in para no.53 as under :-

“The dictionary meaning of the word "review" is "the act of looking; offer something again with a view to correction or improvement. It cannot be denied that the review is the creation of a statute. The power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of Justice. Law has to bend before Justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice nothing would preclude the Court from rectifying the error.”

8. Although, the aforesaid exposition of law expands the scope of review jurisdiction, it cannot extend to cause review of the order on the basis of some subsequent events. In the original writ petition, the petitioners had not challenged the correctness of the order. In fact, that order was taken by them as favouring them and, therefore, when they could find that the said order that has been passed by the Hon'ble Minister is not implemented, they had filed the writ petition. The present applicants/original respondent Nos.1 to 4 could not have gone against the order that was passed by the Hon'ble Minister. Now, the government itself had taken a different stand and modified the government resolution itself. In view of the same, the review was not at all maintainable. Needless to observe that, when very order, directed to be expeditiously implemented by this Court has been withdrawn or modified by the Hon'ble Minister, the State authorities are at liberty to implement the same in modified form unless such modification is annulled or set aside by the competent Court. This Court while disposing of the Writ Petition has not delve into correctness or otherwise of the order passed by the Hon'ble Minister. Except limited directions to State Authorities to expeditiously implement decision of the Hon'ble Minister as it was then standing, no further order has been passed by this Court. In fact,

it ought to have been advised that the State should not go with the review of the order. We could have imposed cost on the Government for unnecessarily filing review applications. We find that even the delay is not at all then explained properly and satisfactorily. The State Government is expected to be fair in all respects. When State Government had issued a resolution and based upon the same when order was passed by the Hon'ble Minister, then whether change in the said Government Resolution itself was appropriate would be at a different question, but waiting for a new Government Resolution to come and then filing the review application that too based upon subsequent event is absolutely not justified and legal. The delay condonation application as well as the review therefore requires to be dismissed. Therefore, there is no reason to recall or modify the order under review. Consequently, we find no merit in the review petition. Hence the applications stand **rejected**. Pending Civil application, if any, also stands disposed of.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI)

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