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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

(Sr. No. 913) WRIT PETITION NO. 8902 OF 2025

Ganesh Gorkshnath Weljale
Age: 39 Years, Occupation: Service,
R/o. A/P. Boripardhi, Taluka: Daund,
District: Pune.

... Petitioner

Versus

1. The State of Maharashtra Thr
The Secretary School Education
and Sports Department,
Mantralaya, Mumbai - 400 032
2. The Commissioner of Education,
Maharashtra State, Pune.
Having office at, Central Building,
First floor, Dr. Annie Besant Road,
Agarkar Nagar, Pune.
3. The Director of Education,
(Secondary and Higher Secondary),
Maharashtra State, Pune,
Having office at, Central Building,
Dr. Annie Besant Road, Agarkar
Nagar, Pune.
4. The Deputy Director of Education,
Pune Region, Pune, Having office at,
17, Dr. Babasaheb Ambedkar Marg,
Opposite to Lal Temple, Pune.
5. The Education Officer (Secondary),
Zilla Parishad, Pune,
Having Office at,
Yashwantrao Chavan Bhavan
(Old Building) Somwar Peth,
Pune-11.

6. Bhairavnath Shikshan Mandal,
Khutbav, Taluka: Daund,
District: Pune,
Through its President/Secretary.
7. Bhairavnath Vidyalaya, Khutbav,
Taluka: Daund, District: Pune,
Through its Head Master.
8. Shri. Vinayak Lalu Kamble
Age: 57 Years, Occu : Service. R/o
Alp Khutbar, Tal. Daund,
Dist Pune. ... Respondents

AND
(Sr. No. 914) WRIT PETITION NO. 8994 OF 2025

Kailas Anil Thorat
Age: 39 Years, Occupation: Service,
R/o. A/P. Ekirewadi, Taluka: Daund,
District: Pune. ... Petitioner

Versus

1. The State of Maharashtra Thr
The Secretary School Education
and Sports Department,
Mantralaya, Mumbai - 400 032
2. The Commissioner of Education,
Maharashtra State, Pune.
Having office at, Central Building,
First floor, Dr. Annie Besant Road,
Agarkar Nagar, Pune.
3. The Director of Education,
(Secondary and Higher Secondary).
Maharashtra State, Pune,
Having office at, Central Building,
Dr. Annie Besant Road, Agarkar Nagar, Pune.

4. The Deputy Director of Education,
Pune Region, Pune,
Having office at, 17,
Dr. Babasaheb Ambedkar Marg,
Opposite to Lal Temple, Pune.
5. The Education Officer (Secondary),
Zilla Parishad, Pune, Having Office at,
Yashwantrao Chavan Bhavan (Old Building)
Somwar Peth, Pune-11.
6. Bhairavnath Shikshan Mandal, Khutbav,
Taluka: Daund, District: Pune,
Through its President/Secretary.
7. Rokdobanath Madhyamik Vidyalaya,
Bhadgaon, Taluka: Daund,
Dist.: Pune,
Through its Head Master.
8. Shri. Vinayak Lalu Kamble,
Age: 57 Years, Occu: Service
R/o. A/P. Khutbav, Taluka: Daund,
District: Pune. ... Respondents

AND
(Sr. No. 915) WRIT PETITION NO. 12840 OF 2025

Shri. Popat Sahebrao Dalimbe,
Age: 39 Years, Occupation: Service,
R/o. A/P. Shirapur, Taluka: Daund,
District: Pune ... Petitioner

Versus

1. The State of Maharashtra Thr
The Secretary School Education
and Sports Department,
Mantralaya, Mumbai - 400 032
2. The Commissioner of Education,
Maharashtra State, Pune.
Having office at, Central Building,

First floor, Dr. Annie Besant Road,
Agarkar Nagar, Pune.

3. The Director of Education,
(Secondary and Higher Secondary).
Maharashtra State, Pune,
Having office at, Central Building,
Dr. Annie Besant Road, Agarkar Nagar, Pune.
 4. The Deputy Director of Education,
Pune Region, Pune,
Having office at, 17,
Dr. Babasaheb Ambedkar Marg,
Opposite to Lal Temple, Pune.
 5. The Education Officer (Secondary),
Zilla Parishad, Pune, Having Office at,
Yashwantrao Chavan Bhavan (Old Building)
Somwar Peth, Pune-11.
 6. Bhairavnath Shikshan Mandal, Khutbav,
Taluka: Daund, District: Pune,
Through its President/Secretary.
 7. Rajeshwar Vidyalaya, Rajegaon,
Taluka: Daund, District: Pune,
Through its Head Master.
 8. Vinayak Lalu Kamble, Age: 57 years,
Occupation: Service
R/o. A/P. Khubav, Tal. Daund,
District. Pune
- ... Respondents

AND
(Sr. No. 916) WRIT PETITION NO. 13322 OF 2025

Vijay Kisan Ghode
Age : 39 Years, Occupation : Service,
R/o. A/P. Swami Chincholi,
Taluka : Daund,
District Pune.

... Petitioner

Versus

1. The State of Maharashtra Thr
The Secretary School Education
and Sports Department,
Mantralaya, Mumbai - 400 032
 2. The Commissioner of Education,
Maharashtra State, Pune.
Having office at, Central Building,
First floor, Dr. Annie Besant Road,
Agarkar Nagar, Pune.
 3. The Director of Education,
(Secondary and Higher Secondary).
Maharashtra State, Pune,
Having office at, Central Building,
Dr. Annie Besant Road, Agarkar Nagar, Pune.
 4. The Deputy Director of Education,
Pune Region, Pune,
Having office at, 17,
Dr. Babasaheb Ambedkar Marg,
Opposite to Lal Temple, Pune.
 5. The Education Officer (Secondary),
Zilla Parishad, Pune, Having Office at,
Yashwantrao Chavan Bhavan (Old Building)
Somwar Peth, Pune-11.
 6. Bhairavnath Shikshan Mandal, Khutbay,
Taluka: Daund, District: Pune,
Through its President/Secretary.
 7. Rajeshwar Vidyalaya, Rajegaon,
Taluka: Daund, District: Pune,
Through its Head Master.
 8. Vinayak Lalu Kamble, Age: 57 years,
Occupation: Service
R/o. A/P. Khubav, Tal. Daund,
District. Pune
- ... Respondents

Mr. Akhil K. i/b Mr. Prashant Bhavake, Advocates for the Petitioner in all matters.

Mr. Utkarsh Desai, Advocate for Respondent Nos. 6 & 7 in all matters.

Mr. P. P. Kakade, Addl GP a/w Mrs. P. N. Diwan, AGP for Respondent – State in WP No. 8902 of 2025.

Mr. S. H. Kankal, AGP for Respondent – State in WP No. 8994 of 2025.

Ms. Priyanka Chavan, AGP for Respondent – State in WP No. 12840 of 2025.

Mr. N. M. Mehra, AGP for Respondent – State in WP No. 13322 of 2025

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 10th DECEMBER, 2025

FINAL ORDER (PER : RAVINDRA V. GHUGE, J.)

1. In these cases, the private individual Respondent has been agitating for his personal demands and has threatened the department that he would commence a hunger fast. He orally leveled allegations against the Petitioners. On such allegations, the Deputy Director has suspended the Shalarth-ID of these Petitioners. There is no dispute that their approvals are intact and all of them are in service and discharging their duties.

2. In the above backdrop, we had granted ad-interim relief to the Petitioners on 3rd July, 2025 (*Ganesh Gorkshnath Weljale & Kailash*

Anil Thorat V/s. The State of Maharashtra & Ors.), by staying the impugned orders. Since they have been working, we had directed that their salaries shall be paid to them on month to month basis.

3. On 19th November, 2025, two more Petitions were taken up for hearing (in all, these four Petitions) and we granted the same ad-interim relief to these Petitioners as well.

4. We have heard the learned Advocates for the Petitioners and the learned AGPs, who have made valiant attempts to defend the impugned orders. The learned Advocate for the Petitioners submit that Respondent Nos.6 to 8 are formal parties. The grievance of the Petitioners is that though they have been working ever since they have been granted approvals for their appointments, which are intact, the Deputy Director has temporarily suspended their Shalarth-IDs due to which their salaries were stopped. The learned AGPs submit that the impugned orders are interlocutory orders.

5. We have been guided by a Judgment delivered by this Court [*Coram: B. R. GAVAI (as His Lordship then was) and RIYAZ I. CHAGLA, JJ.*] dated 01.08.2017 delivered in WP No. 10133 of 2016

(Mrs. Shivaneesh Prasanna Deshpande Vs. State of Maharashtra & Ors.)

and connected matters, which is as under :-

“1. Rule. Rule is made returnable forthwith. Learned AGP waives service of notice for the Respondent-State; and Mr. Chetan Patil and R. A. Naik waives service of notice for Respondent Nos. 4 and 5 in the respective petitions. By consent of parties, petitions are taken up for final hearing.

2. Since facts in all the petitions are common, all the petitions are heard together and disposed of by this common judgment and order.

3. For the sake of convenience, we are referring to the facts in Writ Petition No. 10133 of 2016. The Petitioner came to be appointed as Shikshan Sevak on 3rd November, 2009 against a seat which is available for the open category. On 13th of July, 2010 Respondent No. 2 granted approval to the appointment of Petitioner as Shikshan Sevak. After three years satisfactory completion as Shikshan Sevak by the Petitioner, Respondent No. 5 submitted proposal to the Respondent No. 2 for approval. The Education Officer vide order dated 5th March, 2013 granted approval to the Petitioner as Assistant Teacher from 3.11.2012 in open category. By the impugned order dated 30th July, 2016, the approval which was given to the appointment of the Petitioner as the Assistant Teacher has been cancelled. Being aggrieved thereby, present petition is filed.

4. In all other petitions, though the dates of initial appointment as Shikshan Sevak, the dates of approval and appointment as Assistant Teacher of the Petitioners in other petitions are different to some extent, however, order cancelling the approval is of same date i.e. 30th July, 2016.

5. Affidavit in reply is filed by the Dy. Education Officer. Perused the reasons given in the impugned orders. In

some cases, it is submitted that the selection process was conducted without obtaining prior approval of the Education Officer; and in some cases it is stated that though there was a backlog of reserved category candidates, the candidates were appointed from open category.

6. We find that it will not be necessary for us to go into the merits to find out as to whether the reasons given by the Education Officer in the affidavit are correct or not. We find that the petitions deserve to be allowed on short ground that by the impugned order, Respondent Education Officer has set aside the order passed by the earlier Education Officer. As such, the impugned order revokes the approval granted by the earlier order passed by the predecessor in the office of the Respondent Education Officer. By now, it is settled principle of law that unless the power of review is specifically or by necessary implication provided, the authority cannot review its own order. No doubt, if an order is obtained by exercising fraud, it would stand vitiated. However, it is not the case of the Respondent-Education Officer that Petitioners have obtained their initial orders by fraudulent means. If the earlier Education Officer had granted approval to the Petitioners' appointment, may be erroneously, the same cannot be made a ground to recall the same and pass contrary order, unless a case of fraud, misrepresentation or suppression is made out. Particularly when most of the Petitioners have already put in their services for 11 years, the impugned orders would amount to penalising them for no fault on their part.

7. In that view of the matter, we find that the impugned orders dated 30th July, 2016 are not sustainable in law. We, however, clarify that if the Education Officer is of the view that in some of the schools backlog of reserved category candidates is not properly maintained, the Education Officer would always be empowered to insist that hereinafter no candidate belonging to open category shall be filled in unless the quota of reserved category candidates, as per the

requirement of MEPS Act Rules, is fulfilled.

8. Rule is therefore, made absolute in terms of prayer clause (b) with no orders as to costs. All the writ petitions are accordingly disposed of.”

6. The order passed by the Division Bench of this Court in *Bhushan Vikas Gawad Versus The State of Maharashtra and Ors. (Writ Petition No. 1491 of 2021 and other connected Petitions, dated 16th November, 2021)* reads as under :

1. Mr. Bhavake, learned counsel for petitioner, on instructions, seeks liberty to delete respondents no.6 and 7. Leave to amend is granted. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Rule.

Rule made returnable forthwith. Mr. Walimbe AGP waives service for respondents.

By consent of the parties, the matter is taken up for final disposal.

3. The facts of these petitioner are identical. We, therefore, refer to the facts in Writ Petition No. 1491 of 2021.

4. It is the case of the petitioner that the Varadkar High School and Junior College-respondent no.7 had appointed the petitioner in the post of Shikshan Sevak on 1st December 2012. The Education officer by an order dated 6th February 2019 approved the appointment of petitioner for the post of Shikshan Sevak on unaided basis instead of aided basis.

5. Petitioner as well as the management filed a writ petition before this Court impugning the order dated 6th

February 2019. This Court by an order dated 26th July 2016 directed the respondent no. 5 to decide the said proposal afresh in accordance with law. The education officer by an order dated 2nd March 2019 approved the appointment of petitioner on the post of Shikshan Sevak. The management submitted a proposal for issuing Salarth ID for online payment of salary to the petitioner. The said proposal was submitted to the deputy director of education. It appears that Shri Akash Tambe, made a formal complaint to the respondent no.2 against all the petitioners taking general objections to the orders granting approvals to the appointments in the post of Shikshan Sevak. On 5th November 2019, respondent no.4 after issuing notice, passed an impugned order thereby cancelling individual approval granted to the appointment of the petitioners as Shikshan Sevak. All these teachers filed four writ petitions including the order dated 5th November 2019.

6. Mr. Bhavake, learned counsel for the petitioner invited our attention to the order passed by the education officer granting approval to the appointment of petitioners as Shikshan Sevak and the show cause notice issued by the deputy director of education. He also invited our attention to the impugned order passed by the deputy director of education. He submits that though under the Government Resolution dated 23rd August 2017, at the most, the deputy director of education could exercise the power of review it could be exercised only in limited situation i.e. in case of fraud, misrepresentation or if suppression is made out. He submits that none of these allegations were made in the show cause notice by the deputy director of education. None of such findings are rendered in the impugned order passed by the deputy director of education.

7. Learned counsel relied upon the judgment dated 30th March 2021 referred by this Court in the case of **Ansari Amina Muzhar Ali Vs. The State of Maharashtra and Ors** in

Writ Petition No. 1380 of 2019 and in connected matters and more particularly paragraph no. 8 of the said judgment and submitted that after considering the said Government Resolution dated 23rd August 2017, this Court was pleased to set aside the order of review which did not cover the allegations of “fraud”, “misrepresentation” or “suppression”.

8. Mr. Walimbe, learned AGP for the State does not dispute that the Government Resolution dated 23rd August, 2017 passed by the State Government permits review by deputy director of education in case of fraud, misrepresentation and suppression and not in any other circumstances. He relied upon the reasons recorded in the impugned order passed by the deputy director of education and submits that no interference is warranted with the said order.

9. It is not in dispute that the appointment of the petitioner for the post of Shikshan Sevak made by the management was duly approved by the education officer. The management had applied for entering the name of the petitioner in Salarth ID for the purpose of making online payment of salary to the petitioner. In view of a complaint made by Mr. Akash Tambe, the deputy director of education issued show cause notice to the petitioner. A perusal of the show cause notice clearly indicates that no allegations of fraud, misrepresentation or suppression were made against petitioner or against management by deputy director of education. A perusal of the impugned order also indicates that no such finding is rendered by the deputy director of education relating to fraud, misrepresentation or suppression against the petitioner or against the management.

10. This Court in its judgment delivered on **Ansari Amina Muzhar (Supra)** after considering the Government Resolution dated 23rd August 2017, held that the said

Government Resolution was issued after considering the judgment of this Court delivered on 1st August 2017 in Writ Petition No. 10133 of 2016 and order dated 14th August 2017. This Court held that the said Government Resolution restricted the power of reconsideration or review in limited circumstances of fraud, misrepresentation or suppression. The phrases “fraud”, “misrepresentation” or “suppression” are not colloquial terms, but they have a judicially recognised ambit. These three factors are not to be restricted to the acts of teachers and management alone, but they can be by the authorities and by way of collusion. In such cases, the review would be permissible. For that purpose, show cause notice should mention that these factors exist.

11. We have perused the show cause notice issued by the deputy director of education minutely. We are of the view that none of these factors on which review is permissible by the deputy directory of education exist. The same is the situation in the impugned order passed by the deputy director of education. The principles laid down by this Court in the said judgment in Writ Petition no. 10133 of 2016 and in case of Ansari Amina Muzhar (Supra) would apply to the facts of this case. Learned AGP could not point out existence of fraud, misrepresentation or suppression on the part of the petitioner or the management in appointment of the petitioner which would have empowered the deputy director of education to exercise the power of review in the show cause notice or in the impugned order.

12. In our view, though the Government Resolution permits the power of review in the deputy director of education, such powers can be exercised only in limited situation of fraud, misrepresentation and suppression and not on any other ground.

13. In our view, the impugned order passed by the

deputy director of education is contrary to the principles laid down by this Court in Writ Petition No. 1380 of 2019 and order passed by this Court in Writ Petition No. 10133 of 2016 and contrary to the Government Resolution and thus, deserves to be quashed and set aside. It is ordered accordingly.

14. We accordingly pass the following order:-

- (i) Writ Petition is allowed in terms of prayer clause (b) in aforesaid writ petitions.
- (ii) The name of petitioners shall be recorded in Salarth ID, within three weeks from today.
- (iii) The salary of the petitioners, if not released, shall be released within four weeks from the date of issuance of Salarth ID.
- (iv) Rule is made absolute in the above terms
- (v) No order as to costs.
- (vi) Parties to act upon an authenticated copy of this order.

7. The order passed by the Division Bench of this Court [Coram: G.S.Patel & Dr. Neela Gokhale, JJ.] in *Abdul Jabbar Shaikh Versus The State of Maharashtra through Its Principal Secretary School Education and Sports & Ors.* (Writ Petition No. 460 of 2023 dated 30th January, 2023) reads as under :

1. Rule. The contesting Respondents waive service. Rule returnable forthwith.

2. In our view, the Petition deserves to be allowed on one simple legal ground. By an impugned order of 30th December 2022 passed by the 4th Respondent, The Education Officer (Secondary), Zilla Parishad, Solapur, the authority has purported to review his predecessor's earlier order. The fact

that the officer who passed the order purported to be reviewed was another person only makes matters that much worse.

3. The Petitioner holds an M.A. B.Ed. He was appointed to a vacant post of an assistant teacher in the Solapur Social Association Urdu High School and Junior College of Science, Solapur. This is the 6th Respondent and it is run by the 5th Respondent.

4. There is no dispute about the legality of the Petitioner's initial appointment. The Petitioner was on probation from 20th January 1996. This appointment was in accordance with the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 and the governing Act, the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977.

5. On 3rd February 1996, the management sent a detailed proposal to the 4th Respondent for formalising his appointment and seeking approval. That approval followed with effect from 20th January 1996, the date of commencement of the probation. Later, the Petitioner was appointed as an assistant teacher in the trained graduate pay scale with effect from 1st April 2003. For this the management also sent a detailed proposal for approval to the 4th Respondent. That was granted on 11th June 2003.

6. The Petitioner served for more than 12 years and became entitled to be appointed as the Headmaster of the school. The management decided to appoint the Petitioner as the Headmaster inter alia invoking Section 3(2) of the MEPS Act. His appointment as Headmaster was from 1st September 2007 by the Trust. Once again, the management submitted a proposal on 5th September 2007 for approval of the appointment of the Petitioner as a Headmaster. Even this received approval from the 4th Respondent on 8th October

2007 with effect from 1st September 2007 in a regular pay scale.

7. The Petitioner's appointment was extended periodically. He was due to retire by superannuation on 31st December 2022, in the midst of the educational term of 2022-2023. Therefore, the management passed a resolution on 6th October 2022 granting him an extension in the post of Headmaster to avoid prejudice to the school and the students. This extension was as contemplated by Rule 17(2) of the MEPS Rules. The extension was till the end of the academic term for 2022-2023 since the Petitioner was retiring by superannuation in the middle of the academic year.

8. Even for this extension the management sought approval from the 4th Respondent. The 4th Respondent granted its approval on 10th November 2022 subject to certain conditions which the Petitioner states have been fulfilled. Again, that extension was only to the end of that academic year.

9. It seems then that some persons claiming to be aggrieved and who are represented before us today saying they were trustees or committee members made complaints to the 4th Respondent. It is unfortunate that in this contest between rival claimants to management and trusteeship, a person like the Petitioner who has served the institution, college and its students for nearly two decades should be caught in the crossfire and should have to suffer like this. We are not concerned with the merits of that dispute or with the change reports that are said to be filed with the Charity Commissioner. Those will be dealt with in accordance with law. We are expressing no opinion in that regard. There are also civil suits filed in various Courts. Even those are of no consequence so far as we are concerned. What is relevant is that on 30th December 2022 the officer then temporarily

holding charge in the office of the 4th Respondent, in purported exercise of some power of the review, sought to upset, overturn and reverse the previously approved extension proposal dated 10th November 2022.

10. That the individual who did this so-called review was a different person, and that, too, while temporarily holding charge, makes matters infinitely worse.

11. It is well settled that a power of review is not inherent. It has to be specifically conferred by statute or must exist by an unmistakable necessary implication¹. The rule against inferring a power of review is that assuming a power of review constantly leads to uncertainty. The rule of law demands above all finality and certainty in decision-making processes, and it is never open to an authority to constantly review previous orders in this fashion. Even where powers of review are conferred, they are extremely circumscribed and can be exercised only in very limited circumstances. The approval to the extension was properly sought and granted. The only reason for the so-called review was the pendency of disputes between trustees in civil courts and before the Charity Commissioner. The approval was reversed more or less in anticipation of the result of those litigations and disputes. That is hardly sufficient reason. The extension approval also creates undoubted rights in favour of the Petitioner. It has consequences to the college and the students. The approval is, therefore, not purely ministerial to admit of the exception to the general rule requiring a specific conferment of the power of review.

12. We are unable to see from the impugned order, a copy of which is annexed as Exhibit "A" to the Petition, how

¹ Narshi Thakershiv Pradyumansinghji Arjunsinghji, (1971) 3 SCC 844; Ram Sahu v Vinod Kumar Rawat, (2020) SCC OnLine 896; SREI Infrastructure Finance Ltd v Tuff Drilling Pvt Ltd, (2018) 11 SCC 470; Lily Thomas v Union of India, (2000) 6 SCC 224; Vikram Singh v State of Punjab, (2017) 8 SCC 518; Surendra Mohan Arora v HDFC Bank Ltd, (2014) 15 SCC 294.

the 4th Respondent could possibly have reviewed the 30th November 2022 order in the manner in which he did. This is not a power that could be conferred by the rules. It has to be conferred by the statute. There is no provision shown to us by which the 4th Respondent could possibly exercise any such power of review.

13. In this view of the matter, the Petition succeeds. Rule is made absolute in terms of prayer clause (b) which reads thus:

(b) This Hon'ble Court may be pleased to examine the legality, validity and propriety of the impugned order dated 30/12/2022, whereby, the Respondent No.4 (In-charge Education Officer) has cancelled/revoked the approval to the extension granted to the Petitioner for the post of Headmaster, AND, thereafter, this Hon'ble Court may be further pleased to quash and set aside the same declaring that the impugned order is illegal, arbitrary and in egregious violation of Rule 17(2) of Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981".

14. No costs."

8. The order passed by the Division Bench of this Court [Coram: Ravindra V. Ghuge & M.M.Sathaye, JJ.] in *Nishant Namdeorao Gatkhal and Another versus The State of Maharashtra and Others* (Writ Petition No. 2492 of 2024 dated 23rd October, 2024) reads as under :

1. On 18th October, 2024, we had passed the following order :

"1. A glaring conduct of Dr. B. B. Chavan, Deputy Director of Education, Nashik Division, Nashik and his repeated disobedience of the High Court's orders,

practically showing signs of overbearing the majesty of law, is prima facie indicated through the records before us. It is in this backdrop that we are permitting the Petitioners to add Dr. B. B. Chavan, Deputy Director of Education, Nashik Division, Nashik as Respondent No. 6 in this proceeding.

2. The learned AGP submits that he would take appropriate instructions and advise Dr. B. B. Chavan, Deputy Director of Education, Nashik Division, Nashik to remain present before the Court, on 22/10/2024.

3. The order dated 05/07/2024, placed before us, is marked as “X-1” for identification.

4. In the meanwhile, the order dated 28/12/2023 and order dated 05/07/2024, passed by Dr. B. B. Chavan, Deputy Director of Education, Nashik Division, Nashik shall stand stayed. travel and tours

5. Stand over to 22/10/2024, at 2.30 P.M.

2. The learned Senior Advocate for the Petitioners, relies upon the following judgments/orders delivered by this Court, at the Principal seat and at the Aurangabad Bench :-

(i) Judgment dated 8th December, 2023 delivered by this Court at Aurangabad *in Writ Petition No. 7740 of 2021 (Sandeep Chudaman Shinde and Another V/s. The State of Maharashtra and Others)*;

(ii) Order dated 13th September, 2024 delivered by this Court at Aurangabad *in Writ Petition No. 9740 of 2024 (Vaishali Prakash Upasani alias Vaishali Pravin Deshpande and Others Versus The State of*

Maharashtra and Others);

(iii) Order dated 16th July, 2024 delivered by this Court at Aurangabad in ***Writ Petition No. 7230 of 2024 (Kashinath Rajaram Patil and Others Versus The State of Maharashtra, through Its Principal Secretary and Others)***;

(iv) Order dated 6th August, 2024 delivered by this Court at Aurangabad in ***Writ Petition No. 4893 of 2024 (Pratidnya Trimbakrao Chavan and Others Versus The State of Maharashtra through Its Secretary and Others)***;

(v) Order dated 23rd June, 2021 delivered by this Court at Aurangabad in ***Writ Petition No. 5973 of 2020 (Hemraj Jagannath Fegade Versus The State of Maharashtra and Others)***.

(vi) Order dated 01st August, 2024 delivered by this Court at Aurangabad in ***Writ Petition no. 7964 of 2024 (Vikas Dharma Sonawane and others Versus The State of Maharashtra and Others)***.

3. He also points out a Government Notification, dated 14th October, 2019 issued by the General Administration Department, Mantralaya, State of Maharashtra, directing all concerned not to entertain complaints or applications received from those who have no connection with any institution or through agents etc., He further points out a Circular issued by the Commissionerate of Education, Maharashtra State, dated 26th December, 2019 specifically issuing instructions that the applications regarding personal grievances should be accepted only from persons who are themselves aggrieved and not through agents or strangers. He also relies upon a Notification dated 3rd December, 1958 which introduced the Rules for the preparation, submission and disposal of the applications to the Government.

4. We have considered the submissions of the learned Advocates for the respective sides, including the learned Advocate representing Respondent No.5, original Complainant.

5. Time and again, we have cautioned the State Authorities not to entertain the applications filed by social workers or bystanders or persons unconnected with the organization and who have not suffered any personal legal injury.

6. In several cases, we have noticed that the persons describing themselves as social workers, lodge complaints against teachers and professors working in Schools, Colleges and Universities and hold out threats to the education department to compel them to commence roving inquiries against such employees. We have directed that such complaints should not be entertained. In some matters, we have also held that, Writ Petitions filed by such persons who intend to settle a personal score or pray for roving inquiries, should not be entertained.

7. The learned Senior Advocate appearing for the Petitioners submits that Respondent No. 5 herein, has lodged several complaints against the Petitioner Institution and has also started filing RTI applications seeking personal information about the employees and the management of the Institution, though he is completely unknown and unconnected with the institution.

8. Respondent No. 6- Dr.Bhausahab B. Chavan, who is the Deputy Director of Education, Nashik, has tendered an affidavit in reply from page 101, along with several documents, upto page 155. He has tendered an apology and has categorically stated that the impugned orders and the impugned notices issued by him, stand withdrawn, forthwith. He further submits that after noticing several orders passed by this Court, which have been referred to herein above, he has

stopped entertaining the complaints filed by strangers or bystanders and would not entertain such complaints anytime in future.

9. We were contemplating *suo moto* action against Respondent No.6, since we find that though he was aware of our earlier orders referred to in the above paragraphs, for reasons best known to him, he has wholeheartedly entertained the applications of Respondent No.5 and has highhandedly issued an order to register an FIR against one senior member of the Management.

10. Respondent No.5 appears to be habituated to holding out threats of self immolation, before various Deputy Directors of Education. Some of such complaints are placed before us by Respondent No.6, along with his affidavit in reply. These threats are aimed at terrorising the Government Officials. In view of such circumstances, we permit Respondent No.6 to lodge police complaints against Respondent No.5, whenever he holds out a threat of self-immolation or any such precipitative action or threat of fasting, etc., more so, in the light of the judgment delivered by **this Court [Coram: Abhay S Oka (as His Lordship then was) and Sandeep K Shinde, JJ]**, on 12.12.2018, in *Writ Petition no. 8987 of 2018 (Balasaheb Vitthalrao Tidke v/s The State and another)*, at the Principal seat.

11. The learned Advocate representing Respondent No.5, graciously submits that she has already advised Respondent No.5 to refrain from indulging in such acts, hereinafter.

12. Considering that Respondent No.6 has recalled the impugned orders, as well as, the order dated 05.7.2024, **this Writ Petition is disposed off**. Needless to state, the salary bills of the Petitioners, which are not generated or not accepted for ten months, shall be generated and acted upon, forthwith, by the concerned, for payment of arrears and regular monthly

payments.

13. Considering the unconditional apology tendered by Dr. B. B. Chavan, we would render a quietus to the said issue.

14. We direct the Registrar (Judicial) to place a copy of this order before the Chief Secretary of the State of Maharashtra, as well as, the Principal Secretaries, General Administration Department and the School and College Education Department, in order to issue strict directions to all the Education Departments and the Statutory Authorities to refrain from entertaining such complaints/applications/representations or of threats, by unconnected people, more so, in view of the Notification dated 3rd December 1958, the Circular dated 26th December, 2019 and the Government Resolution dated 14th October, 2019 referred to herein above.”.

9. The order passed by the Division Bench of this Court [Coram: A.S.Oka (as His Lordship then was) and G.S.Patel (as His Lordship then was) JJ.] in *Satpute Vidya Machindra vs. The State of Maharashtra & Ors.* (Writ Petition No. 3811 of 2013 and another connected Petition dated 2nd August, 2013), reads as under :

1 Heard the learned counsel for the petitioner, learned counsel for the second respondent and the learned counsel for the third respondent. We have heard the learned A.G.P for the first respondent. Notice for final disposal was issued on 11th July 2013. The facts of both the petitions are similar. Therefore, for the sake of convenience, a reference is made to the facts of the case in Writ Petition No.3811 of 2013.

2 On 15th June 2012, the petitioner was appointed as ‘Shikshan Sevak’ with the third respondent school. On 9th September 2012, the second respondent granted approval to the appointment of the petitioner. The letter of approval has been annexed as Exhibit-D to the Petition. On 14th September 2012, the second respondent issued communication to the Head of the third respondent-school informing that the approval granted to the teachers possessing qualification of D.Ed after 31st May 2012 will remain stayed and that the salary should not be paid to the petitioner. By the communication dated 1st October 2012, the respondent No.2- Education Officer terminated the approval to the appointment of the petitioner by informing the Head of the school that as there was an internal dispute between two groups, the approval granted earlier to the appointment of the petitioner stands cancelled.

3 Though on 11th July 2013, the parties were put to notice by this Court that an endeavour will be made to decide the petitions finally, no reply has been filed. The learned counsel for the petitioner relies upon the decision of the Division Bench of this Court dated 14th November 2011 in Writ Petition No.4555 of 2011 (Suresh K. Thorat Vs. State of Maharashtra and others). The view taken by this Court is that there is no power vesting to the Education Officer to review his own order. This Court held that in the event the Education Officer finds that the approval order was obtained by fraud or

by misleading or by furnishing fabricated documents about the qualifications and experience, it would be necessary for him to issue a show cause notice to the concerned persons and place the papers before the Deputy Director of Education for passing appropriate order after hearing the parties. In the present case, after granting approval to the appointment of the petitioner, without giving an opportunity of being heard, firstly the approval was stayed and subsequently the same was set aside. Nothing is placed on record by the second respondent to show that any show cause notice was issued to the petitioner. Therefore, the impugned order deserves to be quashed and set aside. However, it will be always open for the second respondent to initiate appropriate proceedings in the light of the law laid down by this Court in case of Suresh Thorat (*supra*).

4 Accordingly, we pass the following order:

- (I) Rule is made absolute in terms of prayer clause (b);
- (II) We also make it clear that in view of setting aside the impugned order dated 1st October 2012, the order of stay which was passed earlier by the Education Officer will not operate as the approval granted earlier stands restored. So long as the petitioner is in the employment, the salary and other admissible allowances shall be paid to the petitioner;
- (III) We make it clear that it will be always open for the second respondent to initiate appropriate proceedings in accordance with law;
- (IV) Rule is made absolute on above terms.

10. We find that, firstly, Respondent No.4 should not have lent his ears to bystanders and strangers, who these days have developed the habit of making allegations against Teachers, Professors and Employees of several State instrumentalities or educational institutions.

11. In similarly placed circumstances, we have adverted to the following judgments/Orders :-

“(i) Judgment dated 8th December, 2023 delivered by this Court at Aurangabad *in Writ Petition No.7740 of 2021 (Sandeep Chudaman Shinde and Another V/s. The State of Maharashtra and Others)*;

(ii) Order dated 13th September, 2024 delivered by this Court at Aurangabad in *Writ Petition No. 9740 of 2024 (Vaishali Prakash Upasani alias Vaishali Pravin Deshpande and Others Versus The State of Maharashtra and Others)*;

(iii) Order dated 16th July, 2024 delivered by this Court at Aurangabad in *Writ Petition No. 7230 of 2024 (Kashinath Rajaram Patil and Others Versus The State of Maharashtra, through Its Principal Secretary and Others)*;

(iv) Order dated 6th August, 2024 delivered by this Court at Aurangabad in *Writ Petition No. 4893 of 2024 (Pratidnya Trimbakrao Chavan and Others Versus The State of Maharashtra through Its Secretary and Others)*;

(v) Order dated 23rd June, 2021 delivered by this Court at Aurangabad in *Writ Petition No. 5973 of 2020 (Hemraj Jagannath Fegade Versus The State of Maharashtra and Others)*.

(vi) Order dated 01st August, 2024 delivered by this Court at Aurangabad in *Writ Petition no. 7964 of 2024 (Vikas Dharma Sonawane and others Versus The State of Maharashtra and Others).*”

12. In Nishant Namdeorao Gatkhal & Anr. Vs. The State of Maharashtra & Ors. (supra), we have issued directions to the State Government by relying upon the Judgment of this Court ([A. S. Oka, J., as his Lordship then was and G. S. Patel JJ.]) delivered on 2nd August, 2013 in WP No. 3811 of 2013, Satpute Vidya Machindra Vs. The State of Maharashtra & Ors., wherein this Court had directed the authorities not to act in terms of the dictates of strangers or persons unconnected with the department. Pursuant thereto, the State Government issued a Circular dated 18.02.2025 adverting to the Judgment in Nishant Namdeorao Gatkhal & Anr. Vs. The State of Maharashtra & Ors. (supra) and instructed all such authorities to refrain from entertaining complaints from strangers and bystanders. Unfortunately, the Deputy Director of Education, Pune himself has violated, not only the order of this Court, but, even the said Government Circular. We may need to initiate action against such an officer.

13. In view of the above, these **Writ Petitions are partly allowed**. The impugned orders are quashed and set aside. We clarify that

until a full proper inquiry as may be permitted and prescribed in law is undertaken, there would be no interim action against any of these Petitioners or similarly situated persons. Their salary shall be paid from the months they were withheld, from 4th March, 2025.

14. Due to the manifest inconvenience and grave hardships caused to these Petitioners by the highhanded action of Respondent No.4, we direct that each of the Petitioners shall be paid seven days salary of Respondent No.4, who has passed the impugned order, by deducting the same from his salary payable in the months of January and February, 2026, as costs. We caution the Authorities like Respondent No.4 herein that henceforth, such high-handed orders should not be passed as interim orders.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)