



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO. 4056 of 2009

Ganesh Narayan Chute and 5 others

..

Petitioners

versus.

State of Maharashtra, through Principal Secretary,
Department of School, Mantralaya, Mumbai. And
two others..

..

Respondents

Mr. U. K. Bisen, Advocate for petitioners.

Mrs M. H. Deshmukh, Assistant Government Pleader for respondent no.1

Mr. A. Y. Kapgate, Advocate for respondent nos. 2 and 3 (through Video Conferencing)

CORAM :- NITIN W. SAMBRE AND M. M. NERLIKAR, JJ.

DATE :- 8th JULY, 2025

P. C.

Heard learned counsel for the parties.

2. The prayers in the petition are as under:

“(A) Hold and declare that the Judgement and order passed by this Hon’ble Court in Writ Petition Nos. 4772, 5193 and 5229 of 2004 is not based on correct interpretation of the Government Resolutions dated 14.11.1979 and 29.01.2008 and the same is no longer a good Law.

(B) Hold and Declare that the conditions mentioned in the Government Resolutions dated 14.11.1979 and 29.1.2008 are not preferences but are merely conditions on the basis of which the Primary Teacher who has passed his Graduation while in service can be placed in the pay scale of trained graduate teachers on the basis of seniority, on the condition that they would pass B.Ed. Examination within a stipulated period as mentioned in the modified Resolution dated 19.1.2008.

(C) Direct the respondents and specifically respondent-Zilla Parishad, Gondia to prepare proper seniority list of primary teachers who have passed their graduation while in service, on the basis of their initial date of appointment as primary teachers and then on the basis of the said seniority list, further direct respondent -Zilla Parishad, Gondia to place the teachers mentioned in the said list in the pay scale of trained graduate teachers, in terms of the Government Resolutions dated 14.11.1979 and 29.12.2008 in accordance with the seniority and

further grant them all consequential benefits arising therefrom.

(D) To quash and set aside the impugned seniority list dated 04.08.2009 at Annexure-6 published by the respondent no.2 Chief Executive Officer, Zilla Parishad, Gondia.

(E) Grant such other appropriate and suitable relief in favour of the petitioners, to meet the ends of justice.”

3. **Rule** was granted in the matter as the petitioners were seeking declaration that the judgment in Writ Petition Nos. 4772, 5193 and 5229 of 2004 based on incorrect interpretation of the Government Resolutions dated 14.11.1979 and 29.01.2008. In Writ Petition No.4785 of 2008 on 25.02.2024 this Court had an occasion to deal with the similar request at the behest of the Association. This Court has noted that if the parties individually are aggrieved by the decision of the respondents, it is open for them to question the same.

4. It is brought to our notice by Mr. Kapgate, learned counsel appearing for the respondent nos.2 and 3 that apart from the fact that after the Right to Education Act came into force, the petitioner nos. 1 and 5 have already given an option as contemplated under the same and joined their duties; the petitioner nos. 2 and 4 are transferred to the Zilla Parishad, Bhandara; whereas, the petitioner nos. 3 and 6 though called to give an option at par with an option offered to the petitioners nos. 1 and 5, being subject teachers, they have refused to give the same.

5. That being so, in our opinion, it cannot be said that the petitioners can be said to be aggrieved, particularly because the Government Resolution is not considered as per their requirements by the Authority. It is the case of the petitioners that once the petitioners are trained graduate teachers, their seniority has to be counted from the date of entry in service. In such an

eventuality it cannot be granted particularly having regard to the view already expressed by this Court as could be noticed from the prayer clause referred above.

6. That being so, no case for causing interference is made out. The writ petition fails and it is dismissed as such.

Rule stands discharged. No order as to costs.

(M.M.NERLIKAR, J.)

(NITIN W. SAMBRE, J.)

Andurkar.