

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14670 OF 2024

Bharati Shivaji Chougule
Versus

...Petitioner

State Of Maharashtra Through
D E And Ors

...Respondents

Mr. Chetan G. Patil a/w. Mr. Prathamesh P. Magadum a/w.
Ms. Siddheshwari R. Chavan a/w. Mr. Gajraj A. Mali & Mr. Mandar G.
Bagkar, Advocate for petitioner.

Ms. Tejas J. Kapre, AGP for respondent nos. 1 & 2-State.

Mr. Kedar Lad a/w. Indrayani Patil a/w. Poonam Dhotre, Advocate for
respondent no.3.

Mr. Bhooshan R. Mandlik, Advocate for respondent no.4.

Mr. Ajit Savagave (Through VC) a/w. Manthan S. Bhandigare, Advocate
for respondent no.6.

Coram: **Madhav J. Jamdar &
Pravin S. Patil, JJ.**

Date: **April 2, 2026.**

JUDGMENT:

1. The petitioner has approached this Court challenging the order dated 17th July 2020 passed by the Education Officer, whereby the approval granted to the petitioner by order dated 12th February 2020 has been cancelled.

2. The petitioner has challenged the impugned order mainly on the

ground that the Education Officer is not empowered to review his own order. According to the petitioner, it is a settled principle of law that unless the power of review is specifically conferred or can be inferred by necessary implication, the Education Officer cannot review his own order. Hence, on this ground seeks indulgence of this Court in the matter.

3. In support of his submissions, the petitioner has also relied upon the Government Resolution dated 23rd August 2017, whereby a mechanism is prescribed by the State Government for cancellation of approval granted by the authorities.

4. As per the said policy, if the officer finds that the approval granted by him is required to be cancelled, it is necessary to refer the matter to the higher authority in the hierarchy. The said higher authority is then required to issue notice to the employee as well as the institution and, after granting an opportunity of hearing, take a decision on merits.

5. The petitioner submits that there is an utter violation of the said Government Resolution dated 23rd August 2017, and consequently, the impugned order is liable to be quashed and set aside.

6. Per contra, Mr. Lad, learned counsel appearing for respondent no.3, has strongly opposed the petition. According to him, after grant of approval in favour of the petitioner, a complaint dated 17th March 2020 was received from respondent no.6 alleging that the petitioner had

obtained approval on the basis of forged and fabricated documents. Hence, reconsideration of the approval became necessary.

7. It is submitted that the Education Officer thereafter constituted a three-member committee to inquire into the said complaint. The committee submitted its report, and based on the said report, the impugned order dated 17th July 2020 came to be passed. It is, therefore, contended that no illegality has been committed and the Education Officer has rightly exercised his powers.

8. After hearing the parties, in our considered opinion, the Government Resolution dated 23rd August 2017 is binding on the Education Officer. The said policy provides a specific mechanism in cases where the Education Officer seeks to cancel approval granted by him. In such circumstances, it was incumbent upon the Education Officer to refer the matter, along with the complaint of respondent no.6, to the higher authority, i.e., the Deputy Director of Education. The Deputy Director was then required to issue show cause notice to the petitioner and the institution and decide the matter. Admittedly, this procedure has not been followed.

9. It is further well settled that unless the power of review is specifically conferred or can be inferred by necessary implication, an authority such as the Education Officer cannot review its own order. An

exception to this principle arises in cases where the order is obtained by fraud. However, in the present case, it is not demonstrated that the petitioner had obtained the approval by playing fraud upon the authority.

10. It is trite that fraud has a definite meaning in law and the party against whom fraud is alleged must be put on notice and heard. Fraud must be proved following inquiry and tendering of evidence. Mere allegation of fraud or drawing an inference of fraud will not suffice. In the present matter, it is an admitted fact that it is neither a case of fraud nor was any opportunity of hearing given to the petitioner before passing the impugned order. Hence, in our considered opinion, the impugned order is not sustainable in the eyes of law.

11. In the above circumstances, the Education Officer has exceeded his jurisdiction by exercising powers of review. The impugned order is, therefore, liable to be quashed and set aside. Accordingly, we proceed to pass the following order :

- (i) The Writ Petition is allowed.
- (ii) Order passed by Respondent No.3 Education Officer dated 17th July 2020 is hereby quashed and set aside.
- (ii) The order of approval of petitioner against the post of Assistant Teacher dated 12th February 2020 is hereby restored with all consequential benefits, in accordance with law.

12. Accordingly, the Writ Petition stands disposed of in the above terms.

[Pravin S. Patil, J.]

[Madhav J. Jamdar, J.]