



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

WRIT PETITION NO. 3864 OF 2024

- 1) Yashwant Gramin Shikshan Sanstha,
Wardha, through its President,
Samir Sureshrao Deshmukh,
aged 45 years, Office at Mahadeopura,
Wardha 442001.
- 2) Ashwin Bhagwantrao Sabale,
aged 35 years, Occu.-Service,
r/o. At post Zodashi, Tal. Seloo,
Dist. Wardha.
- 3) Prakash Vithobaji Fartade,
aged 41 years, Occu.-Service,
r/o at Rohankheda, Post Kangaon,
Tal. Hinganghat, Dist. Wardha.
- 4) Ku.Nandini Punjabrao Kokate,
aged 41 years, Occu.-Service,
r/o Behind Priyadarshini College,
Nalwadi, Wardha, Dist. Wardha.
- 5) Pravinkumar Haribhau Raut,
aged 44 years, Occu.-Service,
r/o At post Dahegaon (Gosavi),
Tal. Seloo, Dist. Wardha.
- 6) Ku.Manjusha Nanaji Bhise,
aged 42 years, Occu.-Service,
r/o At post Zodashi, Tal. Seloo,
Dist. Wardha.
- 7) Pravin Namdeorao Surkar,
aged 38 years, Occu. Service,
r/o At post Talegaon (Talatule),
Tal. Wardha, Dist. Wardha.

- 8) Atul Vinayakrao Raut,
aged 46 years, Occu.-Service,
r/o Burande Layout, Ram Mandir Road,
Arvi Naka, Wardha, Dist. Wardha.
- 9) Nilesh Govindrao Taywade,
aged 39 years, Occu.-Service,
r/o Gajanan Nagar, Vaidya Layout,
Ram Mandir Road, Wardha,
Dist. Wardha.
- 10) Amol Jagdishrao Patil,
aged 44 years, Occu.-Service,
r/o 55-B, Pathan Layout, Ring Road,
Sambhaji Nagar, Nagpur, Dist. Nagpur.
- 11) Rajendra Pandurang Kokate,
aged 38 years, Occu.-Service,
r/o At Umara, Post Bhosa,
Tal Samudrapur, Dist. Wardha.
- 12) Ku.Manisha Ashokrao Raghatate,
aged 39 years, Occu.-service,
r/o Krushnaganga Niwas,
Tukaram Ward, Ramnagar,
Wardha, Dist. Wardha.

.... **PETITIONERS**

// VERSUS //

- 1) The State of Maharashtra,
through its Secretary,
Department of School Education
and Sports, Mantralaya,
Mumbai-400032.
- 2) The Deputy Director of Education,
Nagpur Region, Balbharati,
Opp. Dhantoli Park, Dhantoli,
Nagpur-440012.
- 3) The Education Officer (Secondary),
Zilla Parishad, Wardha, Civil Lines,
Wardha, Dist. Wardha 442001.

.... **RESPONDENTS**

Mr. B. G. Kulkarni, Adv.for the petitioners.
Ms. H. N. Jaipurkar, AGP for the respondents.

**CORAM : SMT. M. S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.**

DATE ON RESERVING THE JUDGMENT : 25/03/2026
DATE ON PRONOUNCING THE JUDGMENT : 04/05/2026

JUDGMENT : (Per – SMT. M. S. JAWALKAR, J.)

Heard.

2. **Rule.** Rule made returnable forthwith. The petition is heard finally with the consent of the learned counsel for the parties.

3. The Petitioners, by this petition, are challenging the validity and propriety of the impugned orders dated 29.02.2024 passed by Respondent No. 3 - Education Officer (Secondary), Zilla Parishad, Wardha and order dated 28.08.2024, passed by Respondent No. 2 - Deputy Director of Education, Nagpur respectively, thereby refusing to grant approval to the appointments of Petitioner Nos. 2 to 12 as 'Shikshan Sewak' for the period of 3 years from their dates of appointments and thereafter as 'Assistant Teachers' after the completion of the said period of 3 years in regular pay scales.

4. It is submitted that Petitioner No.1 is an educational society and has established various higher secondary, secondary and

middle schools, including 11 grant-in-aid schools where Petitioners were appointed. Respondent No.2, the Deputy Director, had submitted a proposal dated 24.01.2014 to the State Government for grant of NOC to fill up 24 vacancies of the posts of teachers in English, Mathematics and Biology in the schools established by petitioner No. 1 society in view of the recommendations of the Education Officer. Subsequently, the State Government had issued NOC for 24 posts in favour of Petitioner No. 1 society **as per NOC letter dated 21.05.2014** and the Petitioner No. 1 society had published advertisement dated 30.07.2014 in daily Lokmat for 24 posts, including posts for Teachers of Mathematics, Biology and English.

5. It is further submitted that Petitioner Nos.2 to 12 had applied for the said posts, fulfilling the eligibility criteria. Petitioner Nos. 2 to 8 possess the qualification of B.A. (English), B.Ed and applied for the post of English Teacher, whereas, Petitioner Nos.9 to 12 possess the qualification of B.Sc. (Maths), B.Ed and applied for the post of Mathematics Teacher. It is pertinent to note that, the Petitioner No.10 was from S.C. category while the other petitioners were treated to be from Open Category. After the necessary resolution, petitioner No. 1 society had appointed Petitioner Nos.2 to

12 as 'Shikshan Sewak' in respective schools. The date of joining of the Petitioner Nos. 2 to 12 is reflected under Annexure P-40 of the petition.

6. It is further submitted that as per communications dated 15.05.2017 and 13.11.2017, Petitioner No. 1 has submitted proposals to Respondent No. 1 and prayed for grant of approval to the appointments made in the year 2014-15. A composite proposal with copies of all necessary documents was again submitted by Petitioner No. 1 to respondent No.3 on 18.07.2018, for grant of approval to the appointments of the petitioner Nos. 2 to 12 along with other seven appointments. However, Respondent No.3 had not taken any decision in the matter and the proposal dated 18.07.2018 was not decided, consequent to which, the Petitioner Nos. 2 to 12 were not receiving their salaries. Therefore, Petitioner Nos. 2 to 12 had filed a Writ Petition No. 7732/2023 before this Court, wherein this Court issued directions to decide the proposal for grant of approval to the appointments of Petitioner Nos. 2 to 12 within a period of six weeks. Consequently, Respondent No. 3 – Education Officer (Secondary), Zilla Parishad, Wardha, by its impugned order dated 29.02.2024, has refused to grant approval to the appointments of Petitioner Nos. 2 to 12, stating following reasons:

- (a) 44 teachers were excess in the schools established by Petitioner No. 1, when the appointments were made in the year 2015-16.
- (b) The proposal was submitted late and the copies of documents establishing the fact that the teachers were shown working were not submitted. Thus bogus/fabricated proposal was submitted.
- (c) There was backlog of S.C. and S.T. category posts. Then also open category posts were filled in. This is a criminal offence.
- (d) There were excess teachers (42 teachers) in Wardha District in the year 2015-16. Hence appointments are invalid being contrary to letter dated 19.07.2014 issued by the Government.
- (e) NOC was not taken from the Education Officer.

7. By way of amendment, it is further submitted that, the Petitioner No. 11 has made a representation dated 20.03.2024, before the Respondent No. 2 raising grievance regarding the order dated 29.02.2024, passed by Respondent No. 3, Education Officer, whereby, Respondent No. 2 called report from the Education Officer regarding the said matter. The report dated 24.05.2024, submitted by Respondent No. 3 to Respondent No. 2 states that the appointments of Petitioner Nos. 2 to 12 were as per rules and the said appointments are eligible for grant of approval, however, Respondent No.2 – the

Deputy Director of Education, Nagpur acted in the most arbitrary fashion passed the impugned order dated 28.08.2024.

8. The learned Counsel for the Petitioners relied on *Ravindra Gansing Sonawane vs. State of Maharashtra & ors.*, reported in *2019(6) ALL MR 265*.

9. *Per Contra*, the Respondent No. 2, in its reply, contended that the order dated 28.08.2024 reflects that the Petitioner no. 1 also did not submit any document reflecting the fact that the Petitioners were working in the school since 2014-2015. The said appointments were made without verifying the roster and taking NOC from the Respondent No.3. The said appointments were also not made as per subject of teaching and as per reservation.

10. The Respondent No.2 further contended that all the appointments were made from open category, thereby breaching the provision of Rule 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, and though surplus teachers were available in the District of Wardha, the Petitioner No.1 appointed the Petitioners No. 2 to 12, without getting NOC from the Respondent No.3. Thus, the Petitioner No.1 did not appoint Petitioners No. 2 to 12 after due compliance of Rule-9 of MEPS Rules

1981. Hence, the orders passed by the Respondent No.2 and 3 are legal and sustainable and no interference is warranted in it.

11. Heard the submissions of both parties at length and perused the documents placed on record.

12. On perusal of the record, it appears that the Deputy Secretary, State of Maharashtra forwarded communication dated 21/05/2014 to the Commissioner (Education). By this communication, it was directed to the Commissioner (Education) that there was ban on recruitment by the order dated 02/05/2012. However, there were proposals received by the State of Maharashtra till March, 2014. In the said proposals, there were proposals for English, Maths. and Science Teachers. There are certain conditions mentioned in the letter. After due verification of the documents and after compliance as per communication dated 21/05/2014, the permission was granted. The advertisement was published for filling up 24 posts in different schools. In pursuance of this advertisement, the petitioner-Society received applications and after due selection process, the petitioner Nos.2 to 12 came to be appointed and they joined their duties in the year 2014/2015. It also appears that on 24/01/2014, the respondent No.2-Deputy Director of Education, Nagpur forwarded the proposal for grant of sanction to fill up the

posts to the Chief Secretary, School Education and Sports Department. In response to this letter, the Deputy Secretary, Maharashtra State vide its communication dated 21/05/2014 addressed to the Commissioner (Education) granting permission to fill up the posts as per chart annexed with the communication. Thus, it can be seen that there was due permission to advertise the posts and their proposals were forwarded. However, the respondent No.3-Education Officer (Secondary), Zilla Parishad Wardha pointed out some deficiencies. The approval was not granted on the count of those deficiencies. The respondent No.3-Education Officer (Secondary), Zilla Parishad Wardha by its communication dated 24/05/2024 intimated that out of 18 teachers, 11 teachers can be granted approval as Shikshan Sevak as they were holding requisite qualification at the time of appointment. However, the remaining seven teachers cannot be granted approval. In spite of this observation by the respondent No.3-Education Officer (Secondary), no approval was granted to the said 11 teachers. In this connection, the petitioner No.4 filed additional affidavit. It is also pointed out by way of this affidavit that the post of primary units had decreased because of the new staffing pattern, the respondent No.3-Education Officer (Secondary) had not issued order for absorption of excess/surplus teachers at any point of time in the years 2015-2016, 2016-

2017, 2017-2018 and 2018-2019. The petitioner No.1 had taken steps to accommodate the excess teachers as per their qualifications on the sanctioned vacant posts. The posts held by petitioner Nos.2 to 12 were already occupied. There were vacancies and additional vacancies had become available in view of the retirement. Hence, the number of excess teachers were reduced in view of the absorption of excess teachers on other vacancies. Thus, the petitioner Nos.2 to 12 appears to have been accommodated on the post of sanctioned strength of teachers. The appointment made in the year 2014/2015 cannot be faulted with on the ground that there were excess teachers in the Academic Years 2015-2016, 2016-2017, 2017-2018 and 2018-2019. In view of the GR dated 28/08/2015, the staffing pattern was revised and therefore, many teachers became excess. Thus, the said position of excess teachers occurred after 28/08/2015. Whereas, the appointments of petitioner Nos.2 to 12 were admittedly in the year 2014-2015.

13. It is also a matter of record that so far as objection in respect of reservation backlog is concerned, it appears that the roster for the year 2012-2013 was duly approved on 20/08/2014. There is no any material change for the year 2013-2014 and 2014-2015. On perusal of the same, it is clear from the approved roster that 24 posts

for open category were available. The appointments on the reserved category post is dependent on the availability of qualified reserved category candidates. Since the petitioner No.10 is available from SC Category, he was selected and appointed. When there were 24 open category posts, we do not see any irregularity in the appointment of ten open category qualified candidates. Thus, the rejection on this count is also erroneous. There is no appointment of open category candidate to the reserved posts.

14. There were another approved roster dated 30/05/2023. Even, thereafter the impugned order passed on 29/02/2024. In 2023 roster also there were 72 posts available from open category. Thus, it appears that the impugned order is passed without application of mind and it is ill founded. The vacancy position as per approved roster confirms that in no manner the appointment of ten open category candidates, the petitioners' appointment can be alleged to be illegal. Thus, we are of the firm opinion that the order passed by the respondent No.3-Education Officer (Secondary) dated 29/02/2024 and the order dated 28/08/2024 passed by the respondent No.2-Deputy Director of Education are erroneous, unsustainable and arbitrary. The same are liable to be quashed and

set aside. Therefore, the petitioner Nos.2 to 12 are entitled for grant of approval. Accordingly, we proceed to pass the following order.

15. The petition is allowed.

16. The impugned orders dated 29/02/2024 passed by the respondent No.3-Education Officer (Secondary) and 28/08/2024 passed by the respondent No.2-Deputy Director of Education, Nagpur are hereby quashed and set aside.

17. The respondent No.2-Education Officer (Secondary) and respondent No.3-Deputy Director of Education, Nagpur are directed to issue approval order pertaining to the petitioner Nos.2 to 12 from their date of appointment and also release consequential benefits of arrears of honorarium/salary within a period of three months.

18. Rule is made absolute in the above terms. No order as to costs. Pending application(s), if any, is(are) disposed of.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)