



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

WRIT PETITION NO. 4675 OF 2024

Smt.Shweta w/o Vivek Rokde and another

-Vs.-

State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's Orders.
or directions and Registrar's orders.

Mr.P.N.Shende, Adv. for the petitioners.
Ms Hemlata Dhande, AGP for the respondents-State.
Mr.P.P.Deshmukh, Adv.for the respondent No.3.

CORAM : SMT. M. S. JAWALKAR &
NANDESH S.DESHPANDE, JJ.

DATE : 4TH FEBRUARY, 2026

P.C.

Heard the learned counsel for the parties.

2. The present petition is filed by the petitioners being aggrieved by the order dated 10/03/2017, issued by the respondent No.2-Deputy Director of Education, Nagpur Division, Nagpur to the extent that it is not granted the benefit of 100% salary to the petitioners from the date of their transfer on 100% grant-in-aid post,i.e.from 01/07/2016.

3. It appears that by the order dated 10/03/2017, the respondent No.2-Deputy Director of Education granted approval to the petitioners in phase-wise manner, i.e. 20% for first year, 40% for second year and so on. This issue is already covered by the judgment of this Court in **Writ Petition No.5971 of 2024** (*Ashish Kuwarlal Bisen v. State of Maharashtra and others*) decided on 21/08/2025, wherein relying on the judgment in **Writ Petition No.7651 of 2023**

(*Vivek Jyoti Shikshan Sanstha, Ranendra & Ors. v. State of Maharashtra & Anr.*), this Court directed the Education Officer to grant approval to the petitioner on 100% salary on grant-in-aid basis and also release the amount of difference. Accordingly specific paras-6 and 7 are reproduced as under:

“6. According to the Petitioner, the approval which is granted by relying upon the Government Resolution dated 28/6/2016, runs contrary to the law laid down by this Court in an identical matter. The Petitioner has relied upon the Judgment delivered by this Court in ***Writ Petition No.7651/2023*** (*Vivek Jyoti Shikshan Sanstha, Ranera & Ors. V/s State of Maharashtra & Anr.*). This Court, while considering the Government Circular dated 28/6/2016, held that same is not in consonance with the law laid down by this Court in other Judgments. Accordingly, the specific averments are made in paragraph Nos.5 and 6, which are as under:

"5. *It is apparent on the face of record that the approval has been granted in phase-wise manner relying upon Circular dated 28/6/2016. It is pertinent to note at this stage that the similar question fell for consideration in Sandhya D/o Balkrushna Teli and Ors. V/s State of Maharashtra and Ors. reported in 2021(4) Mh.L.J. 465 and Sandip s/o Dilip Thorat V/s The State of Maharashtra and Ors., reported in 2022(1) ALL MR 322. In these cases, the Circular dated 28/6/2016 was relied upon. Both the Petitions were allowed. It has been held that approval in a phase-wise manner cannot be granted.*

6. *In this case, transfer of the Petitioner No.3 has been approved by the Education Officer (Secondary). It is indicative of the fact that Education Officer (Secondary) had no doubt about the qualification of the Petitioner No.3, roster and the seniority. Despite having been satisfied the Education Officer (Secondary) granted the approval on grant-in-aid post in a phase-wise manner. The Petitioner No.3 has already worked*

on unaided post for five years. In our view therefore, order passed by the Education Officer (Secondary) granting approval on 20% grant-in post in phase-wise manner dated 06/05/2020 is required to be quashed and set aside."

7. In view of above factual position, the learned AGP stated that the action of the Education Officer was in consonance with the Government Circular dated 28/6/2016 and there is no illegality on his part while following the Government Circular. However, considering the law laid down by this Court, wherein it is specifically held that grant of approval by relying upon the Government Circular dated 28/6/2016 is not permissible, she is not in a position to make any submission and fairly concedes with the settled position of law."
4. The learned AGP for the respondent Nos.1 and 2 also concedes with the settled position of law.
5. In view thereof, the petition is allowed.
6. The impugned order dated 10/03/2017, passed by the respondent No.2-Deputy Director of Education, Nagpur Division, Nagpur is hereby quashed and set aside.
7. The respondent No.2-Deputy Director of Education, Nagpur Division, Nagpur is hereby directed to grant approval to the petitioners with effect from 01/07/2016 on 100% salary on grant-in-aid basis and also release the amount of difference so payable to the petitioners within a period of three months.
8. In view of above, the petition stands disposed of. No costs.

(NANDESH S.DESHPANDE, J)

(SMT.M.S.JAWALKAR, J)