



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

WRIT PETITION NO. 7700/2022
WITH
WRIT PETITION NO. 7697/2022
WITH
WRIT PETITION NO. 7701/2022
WITH
WRIT PETITION NO. 7696/2022
WITH
WRIT PETITION NO. 8003/2022
WITH
WRIT PETITION NO. 7970/2022
WITH
WRIT PETITION NO. 7698/2022
AND
WRIT PETITION NO. 7699/2022

WRIT PETITION NO. 7700/2022

Dinesh Krushnarao Kohare,
Aged about 48 years, Occ.
Service, R/o. Utkarsh Colony,
Wajurkar Layout, Karla Road,
Wardha, District Wardha
442001

.....PETITIONER(S)

// VERSUS //

(1) **State of Maharashtra,**
Through Department of
Education, Mantralaya,
Mumbai-32

- (2) **Maharashtra State Secondary and Higher Secondary Board,**
Through its Chairman, Nagpur
Division, Nagpur, Civil Lines,
Nagpur 440001
- (3) **Deputy Director of Education,**
Nagpur Division, Nagpur
- (4) **Education Officer (Secondary),**
Zilla Parishad, Wardha
- (5) **Wardha Education Society,**
Through its President, Wardha,
C/o. New English High School
and Junior College, Wardha
- (6) **New English High School and Junior College,** Through its
Principal, Wardha
- (7) **Dnyanendra Vishwanath Muneshwar,**
Aged about 43 years, Occ.
Service, R/o. 33, Bapatwadi,
Vikramsheela Nagar Road,
Wardha 442003

....RESPONDENT(S)

WITH
WRIT PETITION NO. 7697/2022

Sau. Pushpa Sanjayrao Dhande
(Chaudhari),

Aged about 51 years, Occ.
Service, R/o. C/o. Sanjayrao
Dhande, Behind Maganwadi,
Near Goras Bhandar, Wardha,
District Wardha 442001

....PETITIONER(S)

// VERSUS //

- (1) State of Maharashtra,**
Through Department of
Education, Mantralaya,
Mumbai-32
- (2) Maharashtra State Secondary
and Higher Secondary Board,**
Through its Chairman, Nagpur
Division, Nagpur, Civil Lines,
Nagpur 440001
- (3) Deputy Director of Education,**
Nagpur Division, Nagpur
- (4) Education Officer (Secondary),**
Zilla Parishad, Wardha

(5) **Wardha Education Society,**
Through its President, Wardha,
C/o. New English High School
and Junior College, Wardha

(6) **New English High School and
Junior College,** Through its
Principal, Wardha

(7) **Dnyanendra Vishwanath
Muneshwar,**
Aged about 43 years, Occ.
Service, R/o. 33, Bapatwadi,
Vikramsheela Nagar Road,
Wardha 442003

....RESPONDENT(S)

WITH
WRIT PETITION NO. 7701/2022

Shailesh Rameshkumar Dave,
Aged about 51 years, Occ.
Service, R/o. 28, Mohini Nagar,
Behind Arti Talkies, Wardha,
District Wardha

.....PETITIONER(S)

// VERSUS //

- (1) **State of Maharashtra,**
Through Department of
Education, Mantralaya,
Mumbai-32
- (2) **Maharashtra State Secondary
and Higher Secondary Board,**
Through its Chairman, Nagpur
Division, Nagpur, Civil Lines,
Nagpur 440001
- (3) **Deputy Director of Education,**
Nagpur Division, Nagpur
- (4) **Education Officer (Secondary),**
Zilla Parishad, Wardha
- (5) **Wardha Education Society,**
Through its President, Wardha,
C/o. New English High School
and Junior College, Wardha
- (6) **New English High School and
Junior College,** Through its
Principal, Wardha

(7) **Dnyanendra Vishwanath
Muneshwar**, Aged about 43
years, Occ. Service, R/o. 33,
Bapatwadi, Vikramsheela Nagar
Road, Wardha 442003

....RESPONDENT(S)

WITH
WRIT PETITION NO. 7696/2022

Mangala Vasant Rao Bhoyar,
Aged about 53 years, Occ.
Service, R/o. C/o. Shri
Pramod Rao Pawade, Sharada
Nagar, Near Yashodeep
Convent, Wardha, District
Wardha 442001

.....PETITIONER(S)

// VERSUS //

(1) **State of Maharashtra**,
Through Department of
Education, Mantralaya,
Mumbai-32

(2) **Maharashtra State Secondary
and Higher Secondary Board**,
Through its Chairman, Nagpur
Division, Nagpur, Civil Lines,
Nagpur 440001

- (3) **Deputy Director of Education,**
Nagpur Division, Nagpur
- (4) **Education Officer (Secondary),**
Zilla Parishad, Wardha
- (5) **Wardha Education Society,**
Through its President, Wardha,
C/o. New English High School
and Junior College, Wardha
- (6) **New English High School and
Junior College,** Through its
Principal, Wardha
- (7) **Dnyanendra Vishwanath
Muneshwar,**
Aged about 43 years, Occ.
Service, R/o. 33, Bapatwadi,
Vikramsheela Nagar Road,
Wardha 442003

....RESPONDENT(S)

WITH
WRIT PETITION NO. 8003/2022

**Sanjay S/o Madhukarrao
Bamanpalliwar,** Aged about 51
years, Occ. Service, R/o. Flat No.
201, Laxmi Apartments, Karla
Road, Wardha, District Wardha

.....PETITIONER(S)

// VERSUS //

- (1) **State of Maharashtra,**
Through its Secretary,
Department of Education
Sports, Mantralaya, Mumbai-32
- (2) **The Office of the Directorate of
Education,**
Through its Director, Pune-1
- (3) **The Office Divisional Deputy
Director,** Through its Deputy
Director, Nagpur Division,
Nagpur
- (4) **Maharashtra State Secondary
and Higher Secondary Board,**
Through its Chairman, Nagpur
Divisional Board, Civil Lines,
Nagpur 440001
- (5) **The Zilla Parishad, Wardha,**
Through its Education Officer
(Secondary)

(6) **Wardha Education Society,**
Through its Secretary, Wardha,
District Wardha

(7) **New English High School and
Junior College,** Through its
Principal, Wardha, District
Wardha

.....RESPONDENT(S)

WITH
WRIT PETITION NO. 7970/2022

Sou. Sunita Rajendra Lule,
Aged about 64 years, R/o. Flat
No. 604, Ankur Sahanivas, Plot
No. 141, Sneh Sanvardhak
Society, Thengdi Hall,
Jaiprakash Nagar, Khamla,
Nagpur

.....PETITIONER(S)

// VERSUS //

(1) **State of Maharashtra,**
Through its Secretary,
Department of Education
Sports, Mantralaya, Mumbai-32

- (2) **Office of the Accountant General (A&E)-II, Maharashtra** through its Assistant Accountant General/Senior Accounts Officer, Pension Branch Office, Nagpur 440001
- (3) **The Office of the Directorate of Education,** Through its Director, Pune-1
- (4) **The Office Divisional Deputy Director,** Through its Deputy Director, Nagpur Division, Nagpur
- (5) **Maharashtra State Secondary and Higher Secondary Board,** Through its Chairman, Nagpur Divisional Board, Civil Lines, Nagpur 440001
- (6) **The Zilla Parishad, Wardha,** Through its Education Officer (Secondary)

(7) **The Office of the Pay & Provident Fund Unit,**
Through its Superintendent,
Wardha, District Wardha

(8) **Wardha Education Society,**
Through its Secretary, Wardha,
District Wardha

(9) **New English High School and Junior College,** Through its
Principal, Wardha, District
Wardha

...RESPONDENT(S)

WITH
WRIT PETITION NO. 7698/2022

Girish Prabhakar Rao Kale,
Aged about 50 years, Occ.
Service, R/o. 24, Rama Nagar,
(Alodi), Post Nalwadi, Taluka &
District Wardha 442001

.....PETITIONER(S)

// VERSUS //

(1) **State of Maharashtra,**
Through Department of
Education, Mantralaya,
Mumbai-32

- (2) **Maharashtra State Secondary and Higher Secondary Board,**
Through its Chairman, Nagpur
Division, Nagpur, Civil Lines,
Nagpur 440001
- (3) **Deputy Director of Education,**
Nagpur Division, Nagpur
- (4) **Education Officer (Secondary),**
Zilla Parishad, Wardha
- (5) **Wardha Education Society,**
Through its President, Wardha,
C/o. New English High School
and Junior College, Wardha
- (6) **New English High School and
Junior College,** Through its
Principal, Wardha
- (7) **Dnyanendra Vishwanath
Muneshwar,**
Aged about 43 years, Occ.
Service, R/o. 33, Bapatwadi,
Vikramsheela Nagar Road,
Wardha 442003

....RESPONDENT(S)

AND
WRIT PETITION NO. 7699/2022

Sanjaykumar Wamanrao Zade,
Aged about 48 years, Occ.
Service, R/o. Plot No. 23, Maa
Durga Niwas, Lahari Nagar,
Murarka Layout, Nalwadi,
Wardha, District Wardha
442001

.....PETITIONER(S)

// VERSUS //

- (1) **State of Maharashtra,**
Through Department of
Education, Mantralaya,
Mumbai-32
- (2) **Maharashtra State Secondary
and Higher Secondary Board,**
Through its Chairman, Nagpur
Division, Nagpur, Civil Lines,
Nagpur 440001
- (3) **Deputy Director of Education,**
Nagpur Division, Nagpur
- (4) **Education Officer (Secondary),**
Zilla Parishad, Wardha

(5) **Wardha Education Society,**
Through its President, Wardha,
C/o. New English High School
and Junior College, Wardha

(6) **New English High School and
Junior College,** Through its
Principal, Wardha

(7) **Dnyanendra Vishwanath
Muneshwar,**
Aged about 43 years, Occ.
Service, R/o. 33, Bapatwadi,
Vikramsheela Nagar Road,
Wardha 442003

....RESPONDENT(S)

.....
S/Shri Apurv De & A.D. Mohgaonkar, Advocates for the
respective Petitioners

Smt. S.V. Kolhe, AGP for the Respondent/State
S/Shri P.A. Gode, N.R. Saboo & P.B. Patil, Advocates for the
respective Respondents
.....

CORAM : M.S. JAWALKAR & PRAVIN S. PATIL, JJ.

CLOSED FOR JUDGMENT ON :- AUGUST 14, 2025

JUDGMENT PRONOUNCED ON :- SEPTEMBER 09, 2025

JUDGMENT :- (PER:- M.S. JAWALKAR, J.)

. **RULE. Rule made returnable forthwith.** Heard finally by
consent of learned Counsel for the respective parties.

(2) Since Writ Petition No. 7700/2022 is treated as main Petition, the facts and contentions stated in the said Petition are set out for adjudication of the issue involved in all the Petitions and they are being decided by this common judgment.

(3) The facts of the case, in brief, are as under:-

(4) The present Petitioner was appointed in the year 2000 on non grants-in-aid basis on the post reserved for SBC category after following the due procedure of law. On 13/06/2000, the Respondent No. 3 – Deputy Director of Education had given permission to the Respondent No. 6 – New English High School and Junior College to fill the vacant posts which were 8 in numbers. Accordingly, on 03/07/2000, the advertisement was published by the Respondent No. 6. The present Petitioner appeared in the interview, and on 16/09/2000, he was appointed on the post of Assistant Teacher. On 20/06/2002, the Respondent No. 6 issued fresh appointment orders to the Petitioner and other 7 teachers. The 7 other teachers who were appointed along with the present Petitioner

are the Petitioners in other connected Writ Petitions. The details of all the Petitioners are given in the chart below:-

Sr. No.	WP Nos.	Names	Posts	Dates of appointment	Subjects
1	WP 7700/2022	Dinesh Krushnarao Kohare	Assistant Teacher	16/09/2000	Biology
2	WP 7698/2022	Girish Prabhakar Rao Kale	Shikshan Sevak	16/09/2000 – 15/09/2003 on probation for 3 years	History, Marathi
3	WP 7701/2022	Shailesh Rameshkumar	Shikshan Sevak	02/09/2000	Physics
4	WP 8003/2022	Sanjay Madhukarrao Baman Palliwar	Shikshan Sevak	16/09/2000 – 15/09/2003	Physical Education / Eco.
5	WP 7696/2022	Mangala Vasantrao Bhoyar	Shikshan Sevak	02/09/2000	Biology
6	WP 7699/2022	Sanjaykumar Wamanrao Zade	Assistant Teacher	02/09/2000	Physics
7	WP 7697/2022	Sau. Pushpa Sanjayrao Dhande (Chaudhari)	Shikshan Sevak	02/09/2000	Chemistry
8	WP 7970/2022	Sunita Rajendra Lule	Retired	02/09/2000	—

(5) The said appointment of the present Petitioner was approved by the Respondent No. 3 by communication dated 03/09/2003. The Petitioners successfully completed the

probation period of two years. Thereafter, on 26/02/2010, the Respondent No. 3 granted approval to the appointments of the Petitioners from the year 2000. On 22/06/2004, the Respondent No. 7 was appointed on probation on the post of Assistant Teacher. It is clear from the date of appointment that the Respondent No. 7 is junior to the Petitioners. Thereafter, on 30/07/2021, Smt. Mangala Bhoyar has been appointed on the post of Vice Principal of the Respondent No. 6 – School, which said approval has been granted by the Respondent No. 3 – Deputy Director of Education.

(6) On 24/06/2021 and 29/07/2021, after a period of almost 21 years of completion of service of the Petitioners, the Respondent No. 7 filed Complaints to the Respondent Nos. 3 and 5 respectively raising baseless grievances with regard to the appointments of the Petitioners. According to the Petitioners, the Respondent No. 7, by hook or by crook wants to hold the post of Vice Principal in the Respondent No. 6 – School by taking the Management at ransom. Hearing of the said matter was conducted before the Respondent No. 2 – Maharashtra State Secondary and Higher Secondary Board. On 24/11/2022 and

30/11/2022, the Respondent Nos. 2 and 3 respectively passed the impugned orders thereby allowing the Complaints of the Respondent No. 7 and cancelling the approval of the Petitioners. The said orders dated 24/11/2022 and 30/11/2022 are the subject matter of challenge in the present Writ Petition.

(7) Learned Counsel for the Petitioners submits that the impugned orders suffer from delay and laches, are contrary to the provisions of law and are passed on assumptions and presumptions. The roster points of 1999-00, 2000-01 and 2001-02 would show that due to the increased work load from time to time, more number of approved teachers were required. Hence, the appointments of the Petitioners are legal and proper and were granted after following the due procedure of law, and therefore, the same cannot be cancelled or withdrawn after a service period of 22 years. It is submitted that it is the settled principle of law that it is completely the prerogative of the Management to appoint the employees and fill the back log. It is submitted that now, after a service of so many years, the Respondents – Authorities cannot take a ‘U’ turn and cancel the approval of the Petitioners for no fault on their part. The belated

Complaints filed by the Respondent No. 7 should not have been entertained by the Respondents – Authorities and should have been dismissed at the outset. Hence, it is prayed that the impugned orders need to be quashed and set aside and appointments of the Petitioners be uphold.

(8) Shri Apurv De and Shri A.D. Mohgaonkar, learned Counsel for the Petitioners, in support of their contentions, relied on the following citations:-

- (a) Writ Petition No. 219/2022 (Pandurang Narayan Kanekar vs. The State of Maharashtra & others);
- (b) Writ Petition No. 10133/2016 (Mrs. Shivaneesh Prasanna Deshpande vs. State of Maharashtra & others);
- (c) Writ Petition No. 1380/2019 (Ansari Amina Muzhar Ali vs. The State of Maharashtra & others);
- (d) Writ Petition No. 1491/2021 (Bhushan Vikas Gawad vs. The State of Maharashtra & others)
- (e) Writ Petition No. 2492/2024 (Nishant Namdeorao Gatkhal & another vs. The State of Maharashtra & others)
- (f) Union of India & others vs. N. Murugesan Etc, 2022 (2) SCC 25;

(g) **Food Corporation of India vs. Ashis Kumar Ganguly, 2009 (7) SCC 734;**

(h) **K.R. Mudgal vs. R.P. Singh, 1986 (4) SCC 531.**

(9) On the contrary, Smt. S.V. Kolhe, learned AGP for the Respondent Nos. 1, 3 & 4 submitted that in pursuance of the Complaint filed by the Respondent No. 7, the Respondent No. 3 – Deputy Director of Education formed an Enquiry Committee and the Enquiry Committee recommended to cancel the approval order of the Petitioners. After a detailed enquiry, the Respondent No. 2 found that there are glaring irregularities committed by the Respondent No. 5 – Management and the Respondent No. 6 – School in connivance with the Petitioners. The Enquiry Committee has recorded the finding that the Respondent No. 5 – Management and the Respondent No. 6 – School have obtained the approval by increasing the workload in the work chart of grants-in-aid basis and by showing zero backlog while taking the approval. Hence, the Respondent No. 2 cancelled the approval of the Petitioners. From the perusal of the Enquiry Report, it is clear that the Respondent Nos 5 and 6, by misleading the then Deputy Director of Education, received

approval order and the then Deputy Director of Education, without verifying the documents, had granted approval to the Petitioners. It is submitted that the Petitioners have failed to make out any case for interference, hence, the Petitions being devoid of merits, are liable to be dismissed.

(10) Shri P.B. Patil, learned Counsel for the Respondent No. 2 submitted that bare perusal of the order dated 24/11/2022 would indicate that there was an enquiry conducted by the Committee of Five Members in the illegality committed by the Management while making the appointments. The parties were granted opportunity of hearing and after considering the rival contentions, the Respondent No. 2 has passed the impugned order. The Respondent No. 2 has recorded a finding that there was misrepresentation and suppression of facts while obtaining approval from the Education Officer. As such, the Respondent No. 2 was justified in passing the impugned order. It is submitted that the impugned order passed by the Respondent No. 2 is a well reasoned order and the view taken by the Respondent No. 2 is possible and permissible view. Hence, he prays for dismissal of the Writ Petitions.

(11) Shri N.R. Saboo, learned Counsel for the Respondent Nos. 5 and 6 submitted that when the advertisement was issued on 03/07/2000, the Respondent No. 7 did not apply nor participated in the selection procedure. As such, there is no occasion for the Respondent No. 7 to challenge the appointments of the Petitioners. It is submitted that after the appointment of the Respondent No. 7, the Respondent Nos. 5 and 6 notified the seniority list of the Assistant Teachers, wherein the Petitioners were shown above the Respondent No. 7. In absence of the objection to the earlier seniority list, with oblique motive on 24/06/2021, the Respondent No. 7 submitted the Complaint to the President of the Educational Society and claimed that the appointment orders issued by the Management to the Petitioners for the Session 2000-01 were illegal. The Respondent Nos. 5 and 6 have not done any illegal act and have followed the due procedure of law in appointments of the Petitioners.

(12) Shri P.A. Gode, learned Counsel for the Respondent No. 7 submitted that action of the Respondent Nos. 5 & 6 has

been held to be illegal by the Joint Committee vide report dated 27/06/2022 submitted to the Deputy Director of Education which clearly shows that action of the Respondent Nos. 5 & 6 appointing the Petitioners is patently illegal. The said act of the Respondent Nos. 5 & 6 establishes the collusion between the Petitioners and the Respondent Nos. 5 & 6. It is submitted that the Management has suppressed certain facts as far as the verification of the roster is concerned. The roster has to be verified by the Backward Class Cell Office, Nagpur and the roster signed by the Deputy Director of Education has been objected by the Backward Class Cell. In the enquiry, the Management had accepted the backlog in the year 2000, so also, that the workload was not available on the date of advertisement. Now, the Respondent Nos. 5 & 6 cannot take 'U' turn by contending that there was no backlog at the time of advertisement of the year 2000 and there was no workload on grant basis submitted by the Committee. Hence, the impugned orders passed by the Respondent Nos. 2 and 3 are completely within the framework and in accordance with law. Hence, he prays for dismissal of the Writ Petitions.

(13) Learned Counsel for the Respondent No. 7, in support of his contentions, relied on the following citations:-

- (a) **Afroz Khan vs. The State of Maharashtra & others, MANU/MH/0171/2019;**
- (b) **Ashok Sonkar vs. Union of India, (2007) 4 SCC 54;**
- (c) **Upen Chandra Gogoi vs. State of Assam & others, AIR 1998 SC 1289;**
- (d) **K. Shekar vs. Indiramma, (2002) 3 SCC 586;**
- (e) **Nanasaheb Vasant Rao Jadhav vs. State of Maharashtra, (2022) 3 Bom C.R. 54;**
- (f) **S.P. Chengalvaraya Naidu (Dead) by L.Rs vs. Jagannath (Dead) by L.Rs & others, AIR 1994 SC 853;**
- (g) **Kendriya Vidyalay Sangathan & others vs. Ajay Kumar Das & others, AIR 2002 SC 2426;**
- (h) **Urban Improvement Trust, Jodhpur vs. Gokul Narain (Dead) by L.Rs & others, (1996) 4 SCC 178; and**
- (i) **State of Bihar vs. Upendra Narayan Singh & others, (2009) 5 SCC 65.**

(14) Heard learned Counsel for the respective parties at length, considered the documents placed on record and citations relied on by the parties.

(15) Admittedly, on 13/06/2000, the Respondent No. 3 – Deputy Director of Education has given permission to the Respondent No. 6 – New English High School and Junior College to fill in 8 vacant posts. Accordingly, the advertisement was published by the Respondent No. 6 for filling up 8 vacant posts. All the Petitioners came to be appointed after following the due procedure of law. The appointment orders were issued on 20/06/2002 and the Respondent No. 3 – Deputy Director of Education granted approval to the said appointments. In between, on 23/02/2001, the Deputy Director of Education granted approval to 8 teachers, out of which 3 were Shikshan Sewaks and 5 were on probation. The said approval was stayed on 02/11/2001 on the ground that the roster points are not shown and not certified from the Backward Class Cell Office, Nagpur. Vide communication dated 24/01/2003, the approval granted by the Respondent No. 3 – Deputy Director of

Education dated 23/02/2001 in respect of 8 teachers was cancelled by the Deputy Director of Education, Nagpur.

(16) It is contended by the Petitioners that the Deputy Director neither had such powers to review the order passed by himself, nor any case of malafide, misrepresentation or fraud was made out. Thereafter, the Respondent No. 3 – Deputy Director of Education verified the record and having found that there is complete work load available and the appointments were made legally, granted approval to the Petitioners and other Employees vide its order dated 03/09/2003. This approval was granted w.e.f. 24/06/2002. Out of 8 teachers, 7 were granted approval as Full Time Lecturers and one granted as Part Time Lecturer. The Petitioners completed probation period of Shikshan Sewaks on 23/06/2005 and became permanent Junior College Teachers. Accordingly, the approval was granted by the Deputy Director of Education vide its order dated 13/12/2005. All the benefits including deduction of Provident Fund as per the Old Pension Scheme was accepted and implemented by the Respondents in respect of the Petitioners. The Deputy Director of Education confirmed the earlier approval order again by order dated

26/02/2010. Not only this, while issuing the revised order of approval, the approval has been given from the initial date of appointment i.e. 02/09/2000 of probation and confirmation after two years as Full Time Junior College Teacher. The Petitioner in Writ Petition No. 7970/2022 namely Mrs. Sunita Lule, after superannuation, stood retired on 03/03/2016. At no point of time, either her appointment or approval was challenged by anybody.

(17) A person namely Dyanendra Muneshwar (Respondent No. 7), who was appointed as Junior College Teacher, somewhere in the year 2004 alleged to have made a Complaint to the Deputy Director of Education for the first time in 2021, alleging that there was no work load available in respect of the Petitioners and the approvals were granted illegally. Mrs. Lule retired in 2016 and also receiving pension. In the said Complaint, the said Dyanendra Muneshwar prayed for cancellation of the approvals granted in 2001, 2005 and confirmed in 2010. On perusal of the Complaint, the Complainant has raised 9 grounds for cancellation of the approvals granted in 2001, 2005 and 2010. The Complaint is

dated 29/07/2021. It is alleged that there was no sufficient work load in the year 2000-01.

(18) Another contention of the Complainant was that in spite of the backlog, no advertisement showing backlog was published in the year 2001-02 and there is no reason to confirm the approval in the year 2010. From their first appointment i.e. 2000-01, though there was backlog, the candidates from open category were appointed. It is also alleged that by showing backlog as '0', the approval was obtained and the same was cancelled by the Deputy Director of Education. It is alleged that the Divisional Deputy Director, after cancelling the approval granted on 23/02/2001, the Management/School ought to have issued new advertisement and new process of appointment. Therefore, it appears that there is irregularity in the appointments. It is demanded by the Complainant that the approvals of 8 teachers be cancelled and recovery be made from them for last 21 years. It is also alleged that the Divisional Deputy Director has not performed his duties and caused loss of crores of rupees to the State by not verifying the proposal in the year 2010 as to whether there was sufficient work load for

appointments of these teachers. By way of this Complaint, he prayed for re-examination of the orders dated 23/02/2001, 02/11/2001 and 26/02/2010. It is also prayed by the Complainant that the recovery be made from the concerned teachers and their proposals, if any, for the post of Vice-Principal may not be granted.

(19) On perusal of the Complaint, it appears that the Petitioners want to hold the post of Vice-Principal in the Respondent No. 6 - School. It is also clear from another communication made by the Complainant - Shri Dyanendra Muneshwar to the President, Wardha Education Society dated 24/06/2021 (Annexure-K). In this communication also, the grounds raised are the same, however, it is his contention that while appointing the new Vice-President, he should be considered for the same as 7 teachers above him in the seniority list are appointed illegally and without following the due procedure of law. He has also given option to the Management that the Management should get in writing from the said teachers that they do not want the seniority list and they are not willing to get appointed as a Vice-Principal, so that there will

not be any impediment in appointing the Complainant as the Vice-Principal. In second option, he has threatened the Management and the Petitioners that if those teachers are willing to have the seniority, the Complainant will proceed further in the Court of law and in that process, around Rs. 20 crores unnecessary financial burden will be put on the Society. In view thereof, he requested to consider his first option i.e. to get in writing from the teachers that they will not claim any seniority and they do not want to be promoted as the Vice-Principal. It is also suggested that all the teachers should give up their claim of seniority as they have already been benefited financially and again requested for considering his claim for post of Vice-Principal.

(20) In reply, the Respondent No. 3 submitted that after receipt of the Complaint, the Enquiry Committee consisting of 5 persons came to be formed vide its communication dated 20/12/2021. There is no provision of appointing such Committee atleast in the MEPS Act. The said Committee submitted the written submissions, completed the enquiry and recommended in the year 2021-22 for cancellation of the approvals granted to

all the 7 teachers in 2003 and directed to stop the pension of Mrs. Lule who retired in the year 2016 and to recover the said amount since her appointment till date. Recovery and freezing of GPF, DCPS or converted NPS were also recommended against all the 7 teachers. It was recommended that the Management, after cancellation of the approval, terminate the services of all the 7 teachers. It is also observed that as the then Deputy Director of Education retired long back and those are seniors to the Members of the Enquiry Committee, no action is proposed against them. On receipt of the report, the Deputy Director of Education, Nagpur forwarded the proposal for cancellation of approval of the said 8 teachers to the Director of Education vide its communication dated 04/07/2022. The recommendation is based on the decision of the Committee. The Deputy Director of Education, in its communication dated 01/09/2022, forwarded the report of the Committee to the Divisional President of the Maharashtra State Secondary and Higher Secondary Board. In view of the letter by the Director of Education dated 17/08/2022, the report was forwarded to the Education Board. The Education Board reiterated in its decision about the recommendation without verifying the actual record. Moreover, the Board has no

jurisdiction to pass any order unless the conditions prescribed in Section 4A exist in the matter. For the sake of convenience, Sections 4A(1)(a) and (b) & 4(6) of the MEPS Act are reproduced as under:-

“4A. Director's power to hold or order holding of inquiries

(1) Notwithstanding anything contained in sub-section (6) of section 4 or any other provisions of this Act or the rules made thereunder, where in any case of alleged misconduct or misbehaviour of a serious nature or moral turpitude of an employee,—

(a) an inquiry is held by an Inquiry Committee into such allegations and the Director is of the opinion that the Inquiry Committee has unreasonably exonerated the employee, he may call for and examine the record and proceeding of such inquiry for the purpose of satisfying himself as to the correctness of the decision on the basis of its findings, and may either annul, revise, modify or confirm the said decision or may direct the Inquiry Committee to make further inquiry for taking such additional evidence as they may think necessary or he may himself take or authorise any other officer not below the rank of the Education Officer to take such additional evidence ; and while making an order under this clause, if the Director is

satisfied that the charges of serious misconduct, misbehaviour, or as the case may be, moral turpitude have been substantially proved, he shall direct the Management to impose on such employee any of the penalties as specified in sub-section (4) :

Provided that, the Director shall not record any order under this sub section without giving the party affected thereby and the Management an opportunity of being heard.

(b) the Management has either neglected or refused to hold an inquiry against such employee in accordance with the provisions of this Act and the rules made in that behalf, the Director shall direct the Management to initiate action within thirty days from the receipt of such direction, for holding inquiry into the allegation against such employee and to complete the same in accordance with such provisions and rules.

6. (1) Obligations of Head of private school. If..

(a) the Head of a private school or any person duly authorised by him in that behalf,

(i) makes unauthorised alterations in the date of birth of any student recorded in the General Register of the school or gives a school leaving certificate with the date of birth different from that recorded in the General Register; or

(ii) admits any student from an unrecognised educational institution without a written order of the Deputy Director ; or

(iii) gives accelerated promotion to, or detains any student, either of his own accord or at the instance of the Management, in contravention of the rules made in that behalf ; or

(b) the employee of a private school is dismissed or removed or his services are otherwise terminated on account of misconduct, gross negligence of duties, moral turpitude, mis-appropriation of school money or material, negligence or misconduct or both in connection with the examinations or creation of communal disharmony;]

then the Director may, after making such enquiries as he thinks fit, by an order in writing debar the Head or such authorised person 3[or such employee] from holding that post for a period of five years from the date of the order. If after the said period of five years, the Head or such authorised person 3[or such employee] is found to have committed any of the acts aforesaid again, then he may, after giving him a reasonable opportunity of being heard, be permanently debarred by the Director from holding such post in any private school.

(2) After making any order under sub-section (1), the Director shall cause the name of such Head or

authorised person 4[or employee] to be entered in a Black List Register maintained for the purpose, and communicate the name of the Head or such person 4[or employee] to all the managements of private schools in the State.”

(21) Thus, the Board has no authority unless there is any case of alleged misconduct or misbehaviour of a serious nature or moral turpitude of an Employee. In the present matter, none of these grounds are raised against any of the Employees. This power can be invoked only when the enquiry is held by the Enquiry Committee into such allegations and the Director is of the opinion that the Enquiry Committee has unreasonably exonerated the Employee. Secondly, if the Management has either neglected or refused to hold an enquiry against such an Employee in accordance with the provisions of the said Act. Thus, Section 4A of the said Act come into play only when there is above referred allegations against the Employee and the Management is neglecting the same. Thus, the order passed by the Maharashtra State Secondary and Higher Education Board dated 24/11/2022 is absolutely without jurisdiction. There is no allegation against the teacher of any nature of suppression, fraud,

misbehaviour, misconduct and moral turpitude. In view of the order passed by the said Board, the Deputy Director of Education passed the impugned order dated 30/11/2022. In our considered opinion, the Divisional President of the said Board was not having any jurisdiction to pass the impugned order dated 24/11/2022, and therefore, the order dated 30/11/2022 passed by the Respondent No. 3 – Deputy Director of Education is also unsustainable in law.

(22) Insofar as the question of work load and roster is concerned, the Petitioners as well as Respondents – Management have produced the relevant documents on record which clearly go to show that there was sufficient work load in the year 2000-01 and the roster was duly maintained which was certified by the Backward Class Cell, Nagpur. Subsequent approval granted in 2003 w.e.f. 2002 is sufficient to hold that after submitting the documents, the Authorities are satisfied and granted approval. Needless to mention here that every year, there is a staff justification for the last 21 years. There is no remark of excess appointment. The roster which was maintained and certified by the Backward Class Cell, Nagpur is at Annexure-

R (Page No. 109). It is for the year 2001-02. Secondly, there are details of work load given by the Principal of New English High School as per the existing position of 24/11/2000 (Page No. 114, Annexure-T). The Deputy Director of Education has duly accepted the work load and communicated that the staff justification will be informed accordingly. Accordingly, there was yearly sanction to the post given by the Deputy Director of Education.

(23) In our considered opinion, this record was not at all considered by the Committee which is constituted without jurisdiction. Even if it is presumed that the Committee constituted is having jurisdiction, there is no consideration for the delay in filing the Complaint. It appears that on 24/04/2003, (Page No. 158, Annexure-X), the Respondent – School duly explained about the backlog as well as the work load for the years 1999-00 and 2000-01. As the appointment were of 2001 and enquiry is conducted in the year 2021, there was no opportunity to cross-examine any of the persons who then take the decisions. We felt it appropriate to see the record of the Deputy Director of Education in respect of the years 2003 and

2010 whereby fresh approval was granted and the date of approval was corrected at the instance of Deputy Director of Education, which is necessary to come to any decision. Therefore, the direction was issued to the learned AGP to place the record of Deputy Director of Education of the relevant year. However, it was informed by communication dated 13/08/2025 by the Deputy Director of Education that his record is 22 years old and the office has shifted in the year 2018 from Zero Miles to Dhantoli, Nagpur. Therefore, it is not traceable. This communication is taken on record and marked as 'X' for identification.

(24) It is very surprising that the Committee constituted conducted its enquiry, gave its report in 2021 and as per the letter, the record is not traceable since 2018, that clearly goes to show that without verifying the record, the Enquiry Committee proceeded and one sided enquiry has been conducted. The Higher Authorities have also not looked into the fact that the record is necessary. Whatever was the reason for granting approval in 2003 w.e.f. 2002 would have been cleared from the said record. Even the record produced by the Petitioners and the

Management appears to be not considered by the Authorities superior to the Members of the Enquiry Committee. The Complaint appears to be malafide as the Complainant wants to become the Vice-Principal of the school by defeating the claims of 7 senior persons above him. There is no consideration for the delay in the enquiry by the Authorities. Mrs. Lule stood retired in 2016 and she is receiving pension also. In spite of this fact, without any reason, it was directed to stop the pension. There is proper procedure followed at the time of appointment of these teachers. There was permission by the Education Department to advertise the posts. The posts were accordingly advertised and the Petitioners came to be appointed by following the due procedure of law.

(25) Admittedly, the Complainant/Respondent No. 7 entered into service in the year 2004. There is no explanation as to why he kept quiet for these 17 years. The enquiry appears to be concluded within a day. In fact, after 21 years, the Petitioners did not have any opportunity to cross-examine the then existing Authorities. In view thereof, the total procedure adopted by the Deputy Director of Education is illegal. There must be yearly

inspection of the School. Those are also not called by the Committee or the Superior Authorities to get themselves satisfied whether there was sufficient work load nor they have called any remark from the Backward Class Cell. There is no case of fraud or misrepresentation. Moreover, the backlog can be carried forward, if no person from that category is available.

(26) Shri Mohgaonkar, learned Counsel for the Petitioners relied on the judgment in the case of **Pandurang Kanekar (supra)**, wherein similar issue was involved. This Court, in Paragraph Nos. 13 & 14, has held as under:-

“13. The main ground stated in the order of cancellation of the appointment is that as per the roster posts reserved for backward class candidates were not filled up and in the school staff the post of Shikshan Sevak was not sanctioned. In our opinion, this order cannot be sustained for two reasons. First, appointment of the petitioner was made by respondent No.6 by following the procedure as laid down under Rule-9 of the M.E.P.S. Rules and second, the show cause notice is bereft of the required particulars and more particularly, the ground on which the approval has ultimately been cancelled. It is pertinent to note that as per the

provisions of section 5, sub section (2A), the order passed by respondent No.4 cannot be sustained. Appointment order was admittedly for a period of three years. Approval was granted to the said appointment. Even if it is assumed for the sake of argument that there was no approval, in our opinion, it would not stand in the way of the petitioner because as provided under Section-5, sub section (2A) on completion of the probation period of three years, the petitioner became a permanent teacher. As can be seen from the record, two posts from the open category were vacant. Even if it is assumed for the sake of argument that there was a backlog of one reserve category candidate, the petitioner was rightly appointed on the open category post. In the background of these facts and the provisions of section 5 of the M.E.P.S Act and Rule-9 of the M.E.P.S Rules, it was incumbent upon respondent No.4 to specifically set out the relevant ground in the show cause notice. It was also incumbent upon him to record concrete finding based on the facts and applicable law as above and then form an opinion vis-a-vis illegality or otherwise of the appointment of the petitioner. It is seen that the show cause notice is bereft of the above particulars. Similarly, the order passed by respondent No.4 on this point is as vague as the vagueness could be. In our view, therefore, in the teeth of the above stated facts, a deemed

confirmed employee cannot be dislodged from his position on the basis of such order.

“14..... The power of reconsideration or review of the appointment and the subsequent approval can be done in a limited circumstances. The circumstances are, therefore, required to be spelt out in the show cause notice. The main circumstances are fraud or misrepresentation or suppression of the material fact in the process of the appointment as well as in the process of according approval. In case of fraud, misrepresentation and suppression, relevant facts are required to be spelt out in the show cause notice. The fraud, misrepresentation or suppression of facts can be attributed to the teacher, management and to the authorities as well. In some cases, possibility of collusion cannot be ruled out. In our opinion, therefore, before reconsidering or taking review of decision, the relevant grounds must be specifically stated. In our opinion, on proof of fraud, misrepresentation, collusion or suppression of material facts, the review may be permissible. It is cardinal rule of law that the accrued benefits cannot be taken away without giving concerned person reasonable opportunity of hearing and to defend the specific allegations against him.”

(27) Shri Mohgaonkar, learned Counsel for the Petitioners placed reliance on the judgment of this Court in the case of **Shivaneer Prasanna Deshpande (supra)** wherein this Court held in Paragraph No. 6 as under:-

“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.”

(emphasis supplied)

(28) Similar view is taken in the judgment in the case of **Ansari Amina Muzhar Ali (supra)**. This Court, in the said judgment, held in Paragraph Nos. 7 and 8 as under:-

*“7. Here, we are concerned with the order passed inter-party. The Petitioners had approached this Court earlier, and with certain observations, the petitions were allowed. The Division Bench opined that it is a settled principle of law that unless the power of review, specifically or by necessary implication, is provided, the Authority cannot review its own order. **Second, if there is a case of fraud or misrepresentation made out, there can be ground to recall the order. Another aspect that where a person has put in a long period of service, then such a review would be highly inequitable.***

*8. The observations were not in the context of any officer but were prescribing the act of reviewing the earlier decisions, **as such reviews after a long period of time when legitimate expectations arise, parties settle in life; are highly inequitable. Such***

powers would be arbitrarily used. The Division Bench, therefore, restricted the power of reconsideration/review in limited circumstances of fraud, suppression and misrepresentation. The phrases "fraud", "misrepresentation", and "suppression" are not colloquial terms, but they have a judicially recognized ambit. These three factors need not 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."

(emphasis supplied)

(29) Shri Mohgaonkar, learned Counsel for the Petitioners also placed reliance on the judgment in the case of **Bhushan Vikas Gawad (supra)** wherein this Court placed reliance on the judgment in Writ Petition No. 10133/2016 (**Shivane P. Deshpande vs. State of Maharashtra**). It was observed that the learned AGP could not point out existence of fraud, misrepresentation or appointment of the Petitioner therein or the Management in the appointment of the Petitioner which would have empowered the Deputy Director of Education to exercise the power of review.

(30) Shri Mohgaonkar, learned Counsel for the Petitioners placed reliance on the judgment in the case of **Nishant Namdeorao Gatkal (supra)** wherein, this Court, in Paragraph No. 6, observed as under:-

“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.”

(31) Shri Apurv De, learned Counsel for the Petitioners relied on the judgment in the case of **N. Murugesan ETC (supra)** wherein the Hon’ble Apex Court explained the terms laches, acquiescence, approbate and reprobate. It is held in Paragraph Nos. 21, 22, 24 & 25 as under:-

“21. The word laches is derived from the French language meaning “remissness and slackness”. It thus involves unreasonable delay or negligence in

pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. *Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the Court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy to a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the Court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy.*

23.

24. *We have already discussed the relationship between acquiescence on the one hand and delay and laches on the other. Acquiescence would mean a tacit or passive acceptance. It is implied and reluctant consent to an act. In other words, such an action would qualify a passive assent.*

Thus, when acquiescence takes place, it presupposes knowledge against a particular act. From the knowledge comes passive acceptance, therefore instead of taking any action against any alleged refusal to perform the original contract, despite adequate knowledge of its terms, and instead being allowed to continue by consciously ignoring it and thereafter proceeding further, acquiescence does take place.

25. *As a consequence, it reintroduces a new implied agreement between the parties. Once such a situation arises, it is not open to the party that acquiesced itself to insist upon the compliance of the original terms. Hence, what is essential, is the conduct of the parties. We only dealt with the distinction involving a mere acquiescence. When acquiescence is followed by delay, it may become laches. Here again, we are inclined to hold that the concept of acquiescence is to be seen on a case-to-case basis.”*

(emphasis supplied)

(32) Shri Apurv De, learned Counsel for the Petitioners also placed reliance on the judgment in the case of **Food Corporation of India (supra)** wherein the judgment in the case of

State of Tamil Nadu v. Seshachalam [(2007) 10 SCC 137] is referred, wherein the Hon'ble Apex Court held as under:-

*"Some of the respondents might have filed representations but filing of representations alone would not save the period of limitation. Delay or latches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or latches on the part of a Government servant may deprive him of the benefit which had been given to others. **Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.** Opinion of the High Court that GOMs No. 126 dated 29.5.1998 gave a fresh lease of life having regard to the legitimate expectation, in our opinion, is based on a wrong premise. Legitimate expectation is a part of the principles of natural justice. No fresh right can be created by invoking the doctrine of legitimate expectation. By reason thereof only the existing right is saved subject, of course, to the provisions of the statute. {See State of Himachal Pradesh and Anr. v. Kailash Chand Mahajan and Ors. 1992 Supp.(2) SCC 351}."*

(emphasis supplied)

(33) Shri Apurv De, learned Counsel for the Petitioners also placed reliance on the judgment in the case of **K.R. Mudgal (supra)** wherein the Hon'ble Apex Court held that *“satisfactory service conditions postulate that there should be no sense of uncertainty amongst the Government servants created by the writ petitions filed after several years. It is essential that any one who feels aggrieved by the seniority assigned to him should approach the Court as early as possible, as otherwise in addition to the creation of a sense of insecurity in the minds of the Government servants there would also be administrative complications and difficulties. In the said case even after nearly 32 years the dispute regarding the appointment of some of the respondents to the writ petition is still lingering in this Court. It is held that the High Court was wrong in rejecting the preliminary objection raised on behalf of the respondents to the writ petition on the ground of laches.”*

(34) Shri P.A. Gode, learned Counsel for the Respondent No. 7 relied on the judgment in the case of **Afroz Khan (supra)**, however, the facts involved in the said matter are distinguishable. There was admission on the part of the

Institution that the Petitioner was appointed as against the post reserved for ST. Furthermore, there was no roster. There was no clearance from the B.C. Cell before the advertisement. Even the Education Officer had not given permission to advertise the post, though he subsequently helped the Institution giving approval to the appointment of the Petitioner. Thus, the appointment has been made without following the said procedure. In the present matter, as discussed above, there is certification by Backward Class Cell about roster point, and there is also permission of the Deputy Director of Education to advertise the posts and due procedure is followed by the Institution. Therefore, the citation is of no help to the Respondent No. 7.

(35) Learned Counsel for the Respondent No. 7 also relied on the judgment in the case of **Ashok Kumar Sonkar (supra)**. This judgment is also of no help to the Respondent No. 7, on the same grounds as stated above. As such, we do not see any illegality or irregularity in the appointment orders issued in favour of the Petitioners. Due procedure is followed and there are no allegations of fraud or misrepresentation against the Petitioners.

(36) Insofar as the contention of the Respondent No.7 that an action which was not lawful at inception cannot be validated is concerned, there is no dispute over the said proposition of law, however, the Respondent No. 7 has not established that there was no procedure followed at the time of appointments in the year 2000.

(37) Learned Counsel for the Respondent No. 7 also placed reliance on the judgment in the case of **K. Shekar (supra)** wherein the Hon'ble Apex Court in Paragraph No. 23 has held as under:-

“23. If we start with the 'root', - there can be no doubt that the appellant's appointment as Lecturer in 1986 was not in terms of the advertisement pursuant to which he had applied. Before any appointment could be made to the post of Lecturer, the post should have been advertised together with the eligibility criteria in respect thereof. The submission of NIMHANS was that since the post of Lecturer was lower than an Assistant Professor's, it was not necessary to be advertised. If this argument were accepted, it would amount to a violation of Articles 14 and 16. The absence of an advertisement necessarily deprived persons who could have applied for the post, of the opportunity of

applying for the post. The clause in the advertisement which enabled the Selection Committee to recommend the candidate for a lower post if the candidate was not found suitable to fill the post applied for, did not give NIMHANS the power to appoint the recommended candidate against an unadvertised post. Significantly, in the other advertisements on record dated 6.12.1986 and 1.6.1989, the post of Assistant Professor and the post of Lecturer were both advertised.”

(38) There is no dispute over the above proposition, however, as held in the judgment in the case of **Food Corporation of India vs. Ashis Kumar Ganguly (supra)**, delay and/or laches on the part of a Government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant. In the present matter, the Respondent No. 7 filed the Complaint after 21 years and the Authorities acted on the basis of it without verifying the actual record before the Deputy Director of Education while granting approval in 2003.

(39) Learned Counsel for the Respondent No. 7 also placed reliance on the judgment in the case of **Nanasaheb Jadhav (supra)**, however, the facts involved in the said matter are different and distinguishable from the facts involved in the present matter. In the said matter, the Petitioner was a legal practitioner and invoked the public interest litigation jurisdiction of the Court. The said P.I.L. was filed in the year 2018 and the hearing was commenced in February, 2021 and was continued till 2022. In between, the Petitioner has raised a matter of serious concern in the Petition. This Court placed reliance in the judgment in the case of **Kazi Lhendup Dorji v. CBI, reported in 1994 Supp (2) SCC 116**, where the Hon'ble Apex Court in Paragraph No. 30 has held as under:-

*“30. Referring to the decision of the Supreme Court in **Kazi Lhendup Dorji v. CBI**, reported in 1994 Supp (2) SCC 116, the amicus submitted that in view of the seriousness of the allegations, viz. alleged corrupt practices of a Chief Minister, and the need to unearth the truth of such allegations, the Court held that the petitioner in the public interest litigation ought not to be non-suited on the ground of laches. Paragraph 15 was placed, which reads as under:*

"15. As regards delay in filing of writ petition we find that after the issuance of the impugned notification in 1987, efforts were made by the Central Government during the period from 1988 to 1992 to persuade the Government of Sikkim to accord the necessary consent and when the said attempts failed, the petitioner moved this Court in 1993. Having regard to the seriousness of the allegations of corruption that have been made against a person holding the high public office of Chief Minister in the State which have cast a cloud on his integrity, it is of utmost importance that the truth of these allegations is judicially determined. Such a course would subserve public interest and public morality because the Chief Minister of a State should not function under a cloud. It would also be in the interest of Respondent 4 to have his honour vindicated by establishing that the allegations are not true. The cause of justice would, therefore, be better served by permitting the petitioner to agitate the issues raised by him in the writ petition than by non-suiting him on the ground of laches."

(40) In the present matter, we do not see any public interest but only it reveals that it is in the interest of the

Complainant who wants to become the Vice-Principal by removing 7 teachers above him in seniority. As discussed earlier, it can be seen how the personal interest of the Complainant is involved in the matter.

(41) Learned Counsel for the Respondent No. 7 also placed reliance on the judgment in the case of **S.P. Chengalvaraya Naidu (supra)**, however, the reliance is misplaced as in the said matter, there was an element of fraud on the basis of the proved fact and the decree obtained by practicing fraud is held as nullity. In the present matter, there is no allegation of fraud against the Petitioners.

(42) Learned Counsel for the Respondent No. 7 also placed reliance on the judgment in the case of **Ajay Kumar Das (supra)**, however, the issue involved in the said matter is altogether different. The appointments were made by the Appointing Authority, after his own services have been terminated. Therefore, it was declared as nullity and it was held that there is no necessity to issue notice to the appointee.

(43) Insofar as the judgment in the case of **Gokul Narain (supra)** is concerned, the same is not applicable to the present set of facts. In the said matter, the question of Section 47 of the Civil Procedure Code was under consideration and it was held by the Hon'ble Apex Court that the decree found to be a nullity and *non-est* and its invalidity can be set up even at the stage of execution or in a collateral proceeding. The Hon'ble Apex Court considered the relevant provisions of CPC.

(44) Learned Counsel for Respondent No. 7 also placed reliance on the judgment in the case of **Upendra Singh (supra)**, however, the facts involved in the said matter are distinguishable. There was question of regularization of Ad-hoc and temporary daily wage Employees. There is no such question involved in the present matter. It is also held by Hon'ble Apex Court in the above referred matter that the object of recruitment to any such service or post is to secure the most suitable person who answers the demands of the requirements of the object. In case of public employment, it is necessary to eliminate the arbitrariness and favouritism and introduce the uniformity of standards and orderliness in the matter of employment.

(45) As already discussed above, we are of the considered opinion that the due procedure was followed while appointing all the Petitioners. Even if, it is presumed that there are irregularity in the appointment of 2001, the complaint hit by latches in fact, complaint is made with malifide intention so as to get complainant appointed as Vice Principal superseding claim of 7 teachers above the complainant. If his proposal and complaint is seen together, it is abundantly clear that he has suggested option to the Management that Management should get in writing from those 7 teachers they voluntarily gave up their claim of Vice Principalship and not claim any seniority.

(46) Admittedly, there is no provision of appointment of Enquiry Committee as appointed by the Deputy Director of Education. Even, there is no authority to SSC and HSC Board of State of Maharashtra to pass impugned order. The Respondent No. 7 and the Authorities failed to consider the record placed by the Management on record. There were certificate of Backward Cell in respect of roster, so also the Management has placed on record the then existing strength. It is on record that when this Court was directed to the learned AGP to place on record the

documents submitted to the Deputy Director of Education in the year 2002-03, it was informed by the learned AGP that record was shifted from Zero Mile, Nagpur to Dhantoli, Nagpur in the year 2018 and when search was carried out, the said file is not traceable. This communication of the Deputy Director of Education dated 13/08/2025 is taken on record and marked as “X” for identification.

(47) It can be seen that Report of Inquiry Committee constituted by Deputy Director of Education, in our considered opinion, was illegal. Moreover, Report is dated 30.03.2022. As per communication, the record is not traceable since 2018 therefore, the entire inquiry was conducted without perusing the record and then submitted to the Deputy Director of Education. The reference of the matter to SSC Board is also without jurisdiction as no conditions are existing to refer the matter to the Board. There is no allegations on the teachers that they have played any fraud or misrepresentation or they are involved in any act which having moral turpitude. After 21 years, the Board - Respondent No.2 issued order for termination of the said 7 teachers with recovery of salary of 21 years. So far

as Mrs. Lule is concerned, she has already retired in the year 2016, her pension was stopped and recovery was also directed. In our considered opinion, this action is taken at the behest of Complainant, there is no consideration about laches in the report of the Committee illegally constituted. For personal interest, Respondent No. 7 - Complainant has set in motion to all authorities without any valid reason. As held in **Pandurang Kanekar (supra)**, the main circumstance for reconsideration of approval are fraud or misrepresentation or suppression of the material fact in the process of the appointment as well as in the process of according approval. In that event, the said relevant facts are required to be spelt out in the show cause notice.

(48) In view of the judgment of **Shivaneer Prasanna Deshpande (supra)**, 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. If earlier authority has granted approval to the Petitioners' appointment may be erroneously, the said cannot be made a ground to recall the same and pass the contrary order unless the case of fraud, misrepresentation or suppression is made out. Review after a

long period of time when legitimate expectations arise, parties settle in life are highly inequitable. Such powers would be arbitrarily used. If in spite of having no fault on the part of teachers, their services are directed to be terminated with recovery, then each and every Officer responsible for not taking cognizance in 21 years, are also liable to be terminated with recovery. All the Government machinery was set in motion on behest of Complainant. In fact, the Complainant filed complaint with oblique motive to get promotion of Vice Principal and Authorities without verifying record, supported the case of the Complainant.

(49) It is a matter of record that there is staff justification issued regularly. The inspection of the School is also conducted regularly. As such, if there was any deficiencies, the concerned Officer ought to have brought to the notice of the Headmaster and Management. In view of this, unnecessary exercise to give benefit to the Respondent No. 7 is strongly condemned. The Petitioners, at their verge of retirement, are required to suffer mental agony, insecurity after 21 years of service only because of the false and frivolous compliant after 21 years filed by

Respondent No. 7. The Respondent No. 7 never challenged seniority published earlier in 2004 i.e. his date of appointment.

(50) In our considered opinion, the impugned orders passed by the Respondents – Authorities do not sustain the scrutiny of law, and hence, liable to be quashed and set aside and the Respondent No. 7 is liable to pay costs of Rs. 5,000/- (Rs. Five Thousand Only) to each of the Petitioner.

(51) Hence, we proceed to pass the following order:-

ORDER

- (a) The Writ Petitions are **allowed**.
- (b) The common impugned order dated 24/11/2022 passed by the Respondent – Chairman, Maharashtra State Secondary and Higher Secondary Board, Nagpur and the orders dated 30/11/2022 and 04/07/2022 passed by the Respondent – Deputy Director of Education, Nagpur respectively are hereby quashed and set aside.

- (c) The approval granted to the appointments of the Petitioners is hereby restored.
- (d) The Respondent No. 7 shall pay costs of Rs. 5,000/- (Rs. Five Thousand Only) to each of the Petitioner within a period of one month.

Rule is made absolute in the above terms. Pending Application(s), if any, stand(s) **disposed of.**

(PRAVIN S. PATIL, J.)

(M.S. JAWALKAR, J.)