
(2016) 08 BOM CK 0173

In the Bombay High Court

Case No : Writ Petition No. 1030 of 2016

Shaikh Nasim S/o Shaikh Ahmed

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 25-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 6 ALLMR 699

Hon'ble Judges : S.S. Shinde and P.R. Bora, JJ.

Bench : Division Bench

Advocate : S.S. Kazi, V.D. Gunale, Charuta S. Deshmukh, H.I. Pathan, Ms. Sabahat T. Kazi, Dhanaji S. Kudale, S.K. Shaikh and Rahul S. Pawar, Advocates, for the Petitioners in respective Petitions; Waseemullah, Advocate, for the Respondent-Management/School; M.A. Des

Final Decision : Disposed Off

Judgement

S.S. Shinde, J. - Heard. Rule. Rule made returnable forthwith, and heard finally with the consent of the parties.

2. In all these Writ Petitions, the petitioners have taken exception to the impugned orders passed by the Director of Education, Maharashtra State, Pune, thereby withdrawing the approval granted to the appointments/services of the petitioners.

3. It is the submission of the learned counsel appearing for the respective petitioners that the Government of India, Ministry of Human Resource Development Department of School Education and Literacy, vide letter dated 13.04.2009, instructed the Education Secretary, Government of Maharashtra to implement new scheme of Inclusive Education for Disabled at Secondary Stage (in short "IEDSS"). Along with said letter a copy of the guidelines and proforma for submission of proposals was also enclosed. It is further submitted that in pursuance of the directions issued by the Central Government, the State Government on 31.08.2009, issued a Government Resolution for implementation

of the scheme of Inclusive Education for Disabled at Secondary Stage. By way of said Resolution, the State Government permitted the educational institutions, receiving grant-in-aid to appoint special teacher/attendants in pursuance of the Central Government scheme of IEDSS. Accordingly, after advertising the posts and following the proper selection process, the appointments of the petitioners have been made on the post of special teachers/attendants, etc. The appointment orders were also issued in favour of the petitioners. The Director of Education granted recognition to the respective units in which the petitioners were appointed by the respondent institutions. The Deputy Director of Education has granted approvals to the appointments of the petitioners. In some cases, the proposals for approvals are pending, but in most of the cases the Deputy Director of Education has granted permanent approval *Isok lkrR*; in favour of the petitioners. The petitioners have been placed in particular pay scale, as it is evident from the appointment letters issued to the petitioners. It is also stated that the services of the petitioners would be governed by the provisions of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act, 1977 and the Rules. Therefore, once the petitioners have completed two years probation period and to that effect the approvals are granted by the Deputy Director of Education, in that case the impugned show cause notices and also consequent orders passed by the Director of Education for withdrawing the approvals is totally arbitrary exercise of powers. As a sequel of withdrawal of approvals, the petitioners' services would come to an end.

4. It is submitted that after proper enquiry, the Deputy Secretary and Project Coordinator for the State Government informed the Education Officer vide letter dated 29.03.2015 that 328 teachers are qualified. A list of 328 qualified teachers was sent along with forwarding letter dated 29.03.2015. It is the submission of the learned counsel appearing for the petitioners that the names of petitioners have been included in the said list. It is submitted that the Director of Education issued show cause notices to some of the petitioners and some of the petitioners did not receive the said show cause notices. However, the approvals granted to their services have been withdrawn. No action has been taken by the respondents to grant approval for the appointment of some of the petitioners. It is submitted that the salary of the petitioners for the period for which they have rendered services is paid in part, in some cases it is not paid at all. It is submitted that by impugned orders, virtually, the petitioners' appointments have been cancelled by the Director of Education. It is submitted that the Director of Education ought to have considered that the appointments of the petitioners are in accordance with law and the approvals have been granted by the Deputy Director of Education to their appointments, and therefore, after rendering the services by them for considerable period, they cannot be asked to go home without there being any fault on their part.

5. At the cost of repetition, the learned counsel appearing for the petitioners urged that the impugned orders are in the nature of drastic action against the petitioners, and therefore, it was incumbent upon the Director of Education to

consider the case of each of the petitioners, and in those cases wherein replies are filed by the petitioners to the show cause notices, to consider such reply and after affording opportunity of hearing to the petitioners, and after satisfying that he has jurisdiction to take such decision, the decision would have been taken separately in each case. If the Director of Education, without assigning any reasons whatsoever, has withdrawn the approvals granted to the services of the petitioners, it not only amounts to arbitrary exercise of powers, but while doing so, the Authority has indulged into committing illegalities. It is submitted that some of the petitioners are working since 2009 and they have rendered more than 7 years service. It is submitted that in the list of 328 approved teachers, the names of the petitioners are included. The scheme under which the Units have been approved/sanctioned is being continued by the Government of India. There was no reason for the respondents to withdraw the approvals granted to the petitioners appointments/services. It is submitted that as the petitioners are appointed after following due procedure of law and the provisions of MEPS Act are made applicable governing their service conditions. Therefore, as provided in Government Resolution dated 15.09.2010 issued by the School Education and Sports Department, State of Maharashtra, if at all the posts of special teacher/ attendant are not available, then the petitioners can be declared as surplus, and the respondents can be directed to absorb them in other schools.

6. It is submitted that the salary of the petitioners is withheld due to the impugned orders passed by the Director of Education. The impugned orders are passed against the rules of principles of natural justice, inasmuch as in some cases the show cause notices are not issued, wherein the show cause notices are issued the reply is filed by the petitioners in the said cases the Director of Education has not considered their reply and without assigning any reasons, passed the impugned orders. Once the services of the petitioners have been approved by the Deputy Director of Education, the Director of Education has no jurisdiction to withdraw the said approvals by arbitrary exercise of powers and without assigning any reasons in breach of principles of natural justice. In support of the aforesaid contention, the learned counsel appearing for the petitioners pressed into service exposition of law in the case of Uma Nath Pandey and others v. State of Uttar Pradesh and ors., AIR 2009 SC 375. The learned counsel invited our attention to the provisions of the Government Resolution dated 15.09.2010 issued by the School Education and Sports Department, Government of Maharashtra wherein the Government of Maharashtra has taken a decision to absorb 595 special teachers in the primary schools, who were appointed in IEDSS, like the petitioners. It is submitted that appendix-I gives criteria of IEDSS scheme for appointing special teacher as per clause 5.2.2 (VI) and for attendants as per the clause 5.2.1 (IV). The Appendix-III gives eligibility criteria for the teachers and applicability of rules and regulations for service to be governed. The respondent authority has forwarded details of special teachers to the Central Government, and out of which 328 teachers list was published as valid and entitled for salary to be paid vide letter dated 02.02.2015. Most of the

names of the petitioners have been included in the said list. As per the said list, the salary of 9 months was paid to some of the petitioners. However, without any reasons, the Director of Education issued show cause notices to the petitioners and then the approvals granted to their appointments/ services have been withdrawn.

7. It is submitted that all the petitioners worked as full-time teachers/special teachers, however, they are not being paid full amount towards salary, and in case of some of the petitioners salary is not paid at all. In case of some of the petitioners, salary is withheld for considerable period, though they have rendered satisfactory services. The learned counsel appearing for the respective petitioners invited our attention to the various documents placed on record and in particular the copies of the documents showing approvals granted to their services and also in the case of some of the petitioners, the proposals are pending for approval. In case of some of the petitioners, the approvals are granted after completion of probation period and the proposals seeking permanent approvals are pending with the respondent authorities. The learned counsel appearing for the petitioners invited our attention to the exposition of law in the case of *State of H.P. v. H.P. State Recognised and aided Schools Managing Committees and others*, [1995] 4 SCC 507 and submits that the Supreme Court has taken a view that Right to education being a fundamental right, the State of Himachal Pradesh is under a constitutional obligation to provide free education to children till they complete the age of 14 years. The obligation does not end thereafter, but it is subject to the limits of its economic capacity and development. Judicial notice may be taken of the fact that, ordinarily, a child in this country joins school at the age of five years. All the children studying in the Middle Schools would be less than fourteen. Therefore, the State Government is under an obligation to provide free education to the children studying in aided non-government Middle Schools. In other words, the aided private Middle Schools are entitled to full grants-in-aid from the State Government. So far as the High Schools and Senior Secondary Schools are concerned, the State Government is again under an obligation to provide free education to the children studying in these schools who are fourteen years of age or less. The net result is that even in High Schools and Senior Secondary Schools up to 8th/9th class ? the students being 14 or below ? the State Government is bound to provide free education and as such bound to meet the total expenditure of the schools to that extent. The large majority of students, in the non-government schools, being fourteen years of age or below the contention of the State based on financial constraints, is wholly untenable. Therefore, the Supreme Court in that case held that the High Court was right in holding that the imposition of the maximum limit for the disbursement of grants-in-aid to the respondent aided schools was arbitrary and unjustified in the facts of the said case.

The learned counsel for the petitioners submits that when the scheme is being continued by the Central Government and the services of the special teachers are

needed, there was no reason for the Director of Education to withdraw the approvals to the services of the petitioners. In support of this contention, the learned counsel appearing for the petitioners pressed into service exposition of law in the case of *State of Maharashtra v. Sant Dnyaneshwar Shikshan Shastra Mahavidyalaya & Ors.*, 2006 (3) ALL MR 94 (S.C.) and in particular para 74 and 75 thereof. The learned counsel also invited our attention to the judgment of the Full Bench of the Bombay High Court in the case of *St.Ulai High School and another v. Devendraprasad Jagannath Singh and another*, 2007 (1) Mh.L.J. 597 particularly to para 10 of the said judgment. It is submitted that grant of approval by the Education Officer is not a condition precedent to a valid order of appointment. Approvals relate to disbursement of grant-in-aid by the State to the management and want of approval will not invalidate an order of appointment. The learned counsel appearing for the petitioner also invited our attention to the guidelines of IEDSS.

8. The learned AGP appearing for the respondent State/State Authorities submits that the respondents have filed affidavit-in-reply in Writ Petition No.888/2016 (*Hafijoddin s/o. Hasnoddin Shaikh v. The Union of India and others*) and the same reply of the respondent no.3 is adopted in all Writ Petitions which are being heard.

9. It is further submitted that the prayers of the petitioners are not tenable in view of the letter of Government of Maharashtra dated 07.07.2015 for issuing directions of closing down the units under the Integrated Education. The above decision was necessitated because scheme of unit system under IEDSS was proved insufficient to educate all the needy children, 43569 identified in the academic year 2015-16. The old system was capable of educating only 9069 needy children. The Human Resources Department of Government of India, therefore, took a decision to revise the scheme as detailed in para 9 of the Government letter dated 07.07.2015. It is submitted that it is mentioned in the guidelines published in December 2014 by the Central Human Resources Development Ministry that henceforth appointment of the special teachers should be made on the block level or cluster level and such special teacher should go to the such block/cluster level school and teach the disabled students of that category and this scheme should be implemented under the Sarva Shikshan Abhiyan scheme as per the integrated Disabled Education Scheme.

10. It is submitted that in a State wise Survey held in 25 and 26th December, 2013, it is found that there are so many discrepancies in appointment of the special teachers and running in the said units. Hence, the State Government has decided to cancel the permissions given to such units and also to cancel the approvals granted to the teachers appointed under IEDSS scheme. It is submitted that the letter dated 29.12.2015, which has been issued by the respondents and impugned in this Petition has been issued in view of the directions given in Government letter dated 07.07.2015 to respondent no.3 in this petition.

11. It is submitted that vide Government Resolution dated 02.12.2014, the scheme which was supervised and controlled by the Directorate of Primary Education came to be handed over to Rashtriya Madhyamik Shiksha Abhiyan from the date of issuance of this Government Resolution is from 02.12.2014. The petitioners have failed to make a party to the Rashtriya Madhyamik Shiksha Abhiyan as party respondent. Therefore, petitions are hit by principles of non-joinder of necessary parties, and therefore, the same are liable to be dismissed on this ground alone. It is submitted that the High Court in Writ Petition No.452/2015 (Abhijit Kishor Patil v. The Union of India and others) decided on 16/30.10.2015 upheld the validity and legality of the Government letter dated 07.07.2015 by which the said scheme came to be closed down. It is submitted that the action of State Government in closing down the scheme has attained finality, and therefore, challenge to the letter dated 29.12.2015, which has been issued by respondent no. 3 no more survive, and therefore, the said prayers of the petitioners have become infructuous. The learned AGP for the State invited our attention to the judgment of the Division Bench in the case of Abhijit Kishor Patil v. The Union of India and others in Writ Petition No. 452/2015 and submits that the issue raised in the present Petitions are gone into by this Court and the said Petitions were dismissed, and therefore, the present petitions also deserve to be dismissed.

12. We have considered the submissions of the learned counsel appearing for the respective petitioners, learned AGP appearing for the respondent ? State and the learned counsel appearing for the respective respondents at length. With their able assistance, perused the pleadings in the petition, grounds taken therein and annexures thereto, affidavit-in-reply filed by the State Government, also judgments cited across the Bar and the judgment in the case of Abhijit Kishor Patil and others v. The Union of India and others in Writ Petition No. 452/2015 along with connected Writ Petitions decided on 30.10.2015. At the outset, it needs to be clarified that, the present petitions take exception to the impugned orders by which approvals granted to the services of the petitioners have been withdrawn. However, in Writ Petition No. 452/2015 along with connected Writ Petitions, wherein relief prayed by the petitioners therein was for declaring them surplus or for absorbing them in some other aided school. In case of those petitioners, their services were terminated, and in view of the conditions stipulated in the appointment letters that their services shall be governed by the MEPS Act and Rules, the Division Bench of this Court held that, in case of termination of services of the petitioners therein, they can approach the School Tribunal. In that case, this Court did not accept the prayers of the petitioners therein for issuing directions to the respondents to absorb/declare the petitioners therein, as surplus teachers, nevertheless it was observed that the period for which the petitioners have rendered services, they are entitled for the salary, and accordingly, the respondents were directed to pay arrears towards salary. It would be gainful to reproduce herein below para 34 and 35 from the said judgment in the case of Abhijit Kishor Patil and others (supra):

34. Though we are not inclined to issue mandatory directions to the respondents State, nevertheless for the period for which the petitioners have rendered services, they are entitled for the salary. The Deputy Director of Education, Nashik Division, Nashik, is directed to consider the said aspect, either to pay salary from the Public Exchequer, or to ask the concerned Institution to pay the salary, if the petitioners' services are continued after withdrawing the unit. We are aware that, the petitioners have worked for couple of years, and by virtue of rendering services, they have gained experience of teaching/working. It has come on record that, there are in 1185 teachers and 72 attendants though mostly appointed by the private institutions. The State Government can frame the scheme as a one time measure/solution, so as to address the grievances of the petitioners, and other similarly situated teachers and attendants, in the light of the observations of the Hon'ble Supreme Court in para 53 of the Judgment in the case of Secretary, State of Karnataka and others v. Umadevi and others, (2006) 4 SCC 1 which reads thus:-

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa, (supra), R.N. Nanjundappa (supra), and B.N. Nagarajan (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases aboveresferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

35. In the light of the observations of the Hon'ble Supreme Court, it is possible for the State Government to frame the scheme for redressal of the grievances of the petitioners, and other teachers and attendants as one time measure. It is also possible for the Government that, the petitioners and the other special teachers can be given appointment as block/cluster level as per the new scheme. We hope and expect that, the State Government may take appropriate steps to formulate the scheme as one time measure, and solve the problems faced by the petitioners and other similarly situated teachers and the attendants.

13. Therefore, the argument of the learned AGP that the similar issue as arisen in the present Writ Petitions, has been gone into in the said Writ Petitions is not the correct position. The Government of India introduced Centrally Sponsored Scheme (CSS) of "Inclusive Education of the Disabled at Secondary Stage (IEDSS)". The copy of the said scheme is placed on record by the petitioners. The background and rationale has been stated in clause 1 and the aims and objectives has been stated in clause 2 of the said scheme. It would be gainful to reproduce clause 2 and 3 herein below:

2. Aims and Objectives

The Centrally Sponsored IEDSS Scheme aims to:

- enable all students with disabilities completing eight years of elementary schooling an opportunity to complete four years of secondary schooling (classes IX to XII) in an inclusive and enabling environment.
- provide educational opportunities and facilities to students with disabilities in the general education system at the secondary level (classes IX to XII).
- support the training of general school teachers to meet the needs of children with disabilities at the secondary level.

The objectives of the scheme will be to ensure that

- Every child with disability will be identified at the secondary level and his educational need assessed.
- Every student in need of aids and appliances, assistive devices, will be provided the same
- All architectural barriers in schools are removed so that students with disability have access to classrooms, laboratories, libraries and toilets in the school
- Each student with disability will be supplied learning material as per his/her requirement
- All general school teachers at the secondary level will be provided basic training to teach students with disabilities within a period of three to five years.
- Students with disabilities will have access to support services like the appointment of special educators, establishment of resource rooms in every block.
- Model schools are set up in every state to develop good replicable practices in inclusive education.

3. Target Group

The scheme will cover all children of age 14+ passing out of elementary schools and studying in secondary stage in Government, local body and Government-aided schools, with one or more disabilities as defined under the Persons with

Disabilities Act (1995) and the National Trust Act (1999) in the age group 14+ to 18+ (classes IX to XII), namely

Blindness

Low vision

Leprosy cured

Hearing impairment

Locomotor disabilities

Mental retardation

Mental Illness

Autism

Cerebral Palsy

And may eventually cover (i) Speech impairment and (ii) Learning Disabilities, etc.

Girls with disabilities will receive special focus and efforts would be made under the scheme to help them gain access to secondary schools, as also to information and guidance for developing their potential.

14. In the said scheme itself, Appendix-III deals with appointments of Special Teachers. The said Appendix-III reads thus:

Appointments of Special Teachers

Any school where the number of the children with disabilities is more than 5 should appoint one special educator. In accordance with this ratio the requisite number of special teachers may be appointed in schools (or for a cluster of schools) for children requiring special teacher support on permanent basis. The same teachers will provide counselling to the parents, help in identifying the needs of children with disabilities and resources therefore, participate in the assessment team, help in training programmes and in other ways whenever necessary.

Qualifications of the Special Teachers

(iv) Graduates with B.Ed. (Special Education) or B.Ed. (general) with a 2 years Diploma in Special Education for classes IX & X.

(v) Post Graduates in relevant subject with B.Ed. (Special Education) or B.Ed. (general) with a 2 years Diploma in Special Education for classes XI & XII.

(vi) Teachers with Qualifications in single disability area will be encouraged to specialize in other disability areas to take care of wide range of diversities in a general school.

(vii) Prescribed qualifications should be adhered to. In case qualified special teachers are not available, teachers with short training courses recognised by the Rehabilitation Council of India (RCI) may be appointed with the condition that they will complete the full course within three years of appointment. Special allowance for these teachers will be admissible only after completion of the full course.

Remuneration:

The salary of special teachers will be as applicable to general school teachers of the corresponding category in that State/UT. Considering the special type of duties, these teachers will also be given a special allowance. The State Governments may recruit such teacher for this purpose following the normal recruitment procedures.

Therefore, it is clear from the reading of the aims and objectives of the said scheme that, the entire scheme is framed keeping in view the interest of the students with disabilities, the welfare of the students with disabilities including imparting proper education to them by properly trained teachers/special teachers, who have acquired skill in teaching such children with disabilities. It is clearly mentioned in the Appendix-III that the salary of special teachers will be as applicable to general school teachers of the corresponding category in that State/UT. Considering the special type of duties, these teachers will also be given a special allowance. The State Governments may recruit such teacher for this purpose following the normal recruitment procedures. Therefore, the scheme contemplates the payment of salary of special teachers applicable to general school teachers of the corresponding category in that State/UT. It further appears that it is not in dispute that the said scheme is in force and being implemented by the Central Government through the State Governments and Union Territories. But the same scheme has been now transferred to the National Secondary Education Programme. As rightly contended by the learned counsel appearing for the petitioners that when the scheme is in force and the special teachers are needed for the said scheme, and when the petitioners are fully qualified for the post, and even the names of some of the petitioners have been included in the list of 328 teachers, which is also approved by the Central Government, it is difficult to understand as to why the Director of Education had taken extreme step/action of issuing show cause notices to the petitioners, and without assigning any reasons to withdraw the approvals granted to their services.

15. It further appears from the documents placed on record that the Government of Maharashtra did issue Government Resolution, and thereafter, the Director of Education sanctioned/granted/approved the units under which the petitioners were appointed after following the proper selection process as contended by them and also their services have been approved by the Deputy Director of Education. As already observed, in case of some of the petitioners, the proposals are pending and in most of the cases, even the Deputy Director of Education has

granted permanent approvals Isok lkrR;. The Director of Education i.e. respondent no. 3 before issuing show cause notices to the petitioners ought to have kept in view and considered the following legal issues/factual aspects and the implications of granting approvals by the Deputy Director of Education:

(i) When the permanent approvals are granted by the Deputy Director of Education to the appointments of some of the petitioners, who are placed in the particular pay scale, and it is stated that, their services shall be governed by the provisions of the MEPS Act and Rules, under which provisions the Director of Education, Maharashtra State, Pune is empowered to issue show cause notices, asking the petitioners as to why the approvals granted to their services, should not be withdrawn?

(ii) What prompted the Director of Education to issue such show cause notices when the scheme under which the units are granted and the petitioners are working, is not terminated by the Central Government and still the same scheme is being implemented and is in force?

(iii) Whether the Director of Education, without adherence to the principles of natural justice and without hearing the petitioners, and in some cases even without issuing show cause notices and without assigning any reasons in the impugned orders, can withdraw the approvals granted in favour of the petitioners?

(iv) When some of the petitioners are granted approvals after completion of two years probation period, can those petitioners be asked to go home when they possess requisite qualifications and have special qualifications to teach the physically disabled students and possess 4 to 7 years experience of teaching?

(v) When the Central Government has not terminated the scheme and the same is being continued, was it proper on the part of the respondent State Authorities to withdraw the approvals granted to the services of the petitioners, without assigning any reasons, and without considering replies filed by the petitioners?

(vi) Whether the impugned order passed by the Director of Education is arbitrary exercise of powers inasmuch as the same is issued by the said Authority without addressing the issue whether the said Authority possess such power, and if yes, whether the principles of natural justice have been followed before passing the impugned order which suffers from not assigning any reasons?

(vii) Whether the impugned order is a result of non application of mind and in colourable exercise of powers, inasmuch as the Director of Education has not specifically adverted to the specific reply given by the petitioners to the show cause notice issued to them and the impugned orders are passed without assigning any reasons?

(viii) Can the Director of Education withdraw the approvals when such authority itself has sanctioned the units and given approval to the said units and is empowered to supervise and control the subordinate authority i.e. the Deputy

Director of Education, who has granted approvals whether such approvals can be withdrawn contrary to the legal provisions and the provisions of MEPS Act and Rules?

(ix) Whether the withdrawal of approval by the Director of Education would mean in substance terminating the services of the petitioners?

All these aforementioned issues ought to have been taken into consideration/ addressed by the Director of Education before issuing show cause notices to the petitioners. Being an Officer of a welfare state, it was not proper on the part of the Director of Education to issue show cause notices to the petitioners casually, without proper application of mind on its part and in particular when the scheme under which the units are granted by the Director of Education himself and is still in force and not discontinued by the Central Government. The Director of Education ought to have taken into consideration all the aforementioned aspects/ issues, and thereafter, after adhering to the principles of natural justice and after going through the reply filed by each of the petitioners, the Director of Education ought to have proceeded to assign reasons in respect of each petitioner.

16. As already observed, the Director of Education firstly should have addressed whether he has power/jurisdiction to issue show cause notices to the petitioners; Secondly, the services of the petitioners are governed by the certain conditions, which are mentioned in their appointment orders, and therefore, unless personal notices are given to such affected employees mentioning specific provision in law which enables the said Authority to give such show cause notice, and thereafter, seeking their responses and after adverting to the reply filed by them, to pass reasoned order. However, in the present case, the Director of Education has chosen to give show cause notices to the petitioners through the Headmaster.

17. As already observed, the Director of Education has not mentioned any legal provision under which he had undertaken the exercise to issue show cause notices and withdraw the approvals.

18. In the light of the discussion in foregoing paragraphs, we are convinced that, in utter disregard to the principles of natural justice, without application of mind and by arbitrary exercise of powers, the Director of Education has withdrawn the approvals granted to the services of the petitioners. On this ground alone, all the Petitions deserve to be allowed, without touching to the merits of the matter.

19. In that view of the matter, we do not propose to examine the other aspects which are agitated by the petitioners on merits. In that view of the matter, we are of the considered opinion that the impugned orders appear to be result of arbitrary exercise of powers and suffer from not assigning reasons, deserve to be quashed and set aside. Accordingly, the impugned orders passed by the Director of Education, withdrawing the approvals to the services of the petitioners, stands quashed and set aside. The approvals granted to the services of the petitioners stands restored. Needless to observe that, as a corollary of quashing and setting aside the impugned orders withdrawing the approvals, the petitioners would be

entitled for the salary for the period for which they have rendered services and will continue to draw salary, if they are rendering services in the respective institutions. Needless to observe that since the approvals granted to the services of the petitioners have been restored by this Court, the respondents are directed to ensure that the petitioners in whose cases the approvals have been restored, and in whose cases the approvals are pending consideration, should be disbursed the arrears of salary due and payable after verifying their record of attendance, as expeditiously as possible, however, within two months from today. We make it clear that respondent nos.2 to 4 in Writ Petition No.1030/2016 will be held responsible for implementation of directions issued herein before including disbursement of the amount towards salary.

20. The Rule is made absolute to above extent. The Writ Petitions stand disposed of accordingly. Civil Applications, if any, stands disposed of.

Sd/- Sd/-

[P.R. Bora] [S.S. Shinde]

JUDGE JUDGE

21. At this stage, the learned AGP appearing for the State Authorities prays for stay to the effect and implementation of the judgment and order for a period of three weeks from today.

22. The learned respective counsel appearing for the petitioners submit that the petitioners are not getting the salary, though they have rendered the services due to withdrawal of the approvals by the Director of Education, Pune, therefore, this Court may not entertain the prayer of the learned AGP to stay the effect and implementation of the judgment and order pronounced today.

23. In view of the finding recorded by us that the orders, impugned in the present petitions, was an arbitrary exercise of powers by the concern authority which has resulted in unlawfully depriving the large number of teachers from their jobs, we decline to accept the prayer so made by the learned AGP.