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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 3153 OF 2011**

Ms. Sk. Azra Parveen d/o  
Mohammed Haneef

.. Petitioner

v/s.

The State of Maharashtra & Ors.

.. Respondents

.....  
Mr. A.R. Shaikh a/w Zia-Ul-Mustafa for the petitioner  
Mr. C.R. Sonawane, AGP for respondent nos. 1 to3.  
Mr. Ramesh Rane for respondent no.6  
Ms. Chaitrali Deshmukh for respondent no.5  
.....

**CORAM : A.M. KHANWILKAR &  
R.Y.GANOO, JJ.  
DATE : 26<sup>th</sup> JULY, 2011.**

**P.C. :**

1. Heard Counsel for the parties. The petitioner is taking exception to the order dated 15<sup>th</sup> February, 2011 passed by respondent no.6, which is founded on the earlier order passed against the petitioner cancelling her admission in D.Ed. Course by the concerned Authority on 31<sup>st</sup> December, 2005. Admittedly, much before 31<sup>st</sup> December, 2005, the petitioner had successfully completed the D.Ed. Course and was awarded D.Ed. Certificate on 7<sup>th</sup> February, 2005. On the basis of the said D.Ed. Certificate, the petitioner secured employment in the Municipal Corporation Urdu Primary School No.56

(respondent no.7). Admittedly, there is no order passed by the competent Authority to confiscate the D.Ed. Certificate already issued in favour of the petitioner on 7<sup>th</sup> February 2005, as a consequence of order dated 31<sup>st</sup> December, 2005. Indeed, the petitioner made an unsuccessful attempt in challenging the order dated 31<sup>st</sup> December, 2005 cancelling her admission to D.Ed. Course by way of Writ Petition No.689 of 2006. However, that Writ Petition came to be dismissed on 4<sup>th</sup> June, 2008. Atleast after the dismissal of the Writ Petition, the competent Authority should have been advised to take follow-up action of cancelling the D.Ed. Certificate issued in favour of the petitioner. Counsel appearing for the respondent no.4 states that said action has not been taken so far.

2. Considering the fact that the petitioner has allowed the decision of the High Court dated 4<sup>th</sup> June, 2008 passed in Writ Petition filed by her, being Writ Petition No.689 of 2008 to attain finality. Ordinarily, if the admission to D.Ed. Course has been cancelled on the ground of fraud, the question of such candidate being permitted to continue with the Course or for that matter, if has completed the course and has been awarded the D.Ed. Certificate, such Certificate deserves to be confiscated. As a result, we hope and trust that the respondent no.4 must take necessary follow-up action on the basis of order dated 31<sup>st</sup>

December, 2005 cancelling the petitioner's admission, which has already become final.

3. Counsel for the petitioner has placed emphasis on the opinion of another division bench judgment of the Aurangabad Bench dated 7<sup>th</sup> December, 2010 in Writ Petition No.610 of 2006 and connected cases. We are of the opinion that this decision will be of no avail to the petitioner, who has allowed the earlier decision passed in her own petition by the High Court dated 4<sup>th</sup> June 2008, to become final. It is not in dispute that by said Writ Petition No.689 of 2006, the petitioner challenged the general order of cancellation of admission of all similarly placed candidates, dated 31<sup>st</sup> December, 2005. Further, learned AGP points out that the State Government is in the process of challenging the decision of the division bench dated 7<sup>th</sup> December, 2010 before the Apex Court.

4. Be that as it may, for the time being we defer the hearing of this petition till 18<sup>th</sup> August, 2011. In the meantime, respondent no.4 shall take necessary steps as may be advised and file compliance report before the Court. To be listed under caption "direction".

**(R.Y.GANOO, J.)**

**(A.M. KHANWILKAR, J.)**