

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9188 OF 2013

Maharana Pratap Shikshan Sanstha,
Sevapur, Tahat Wadwal (Na),
Tq. Chakur Dist. Latur.

...PETITIONER

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

WITH

WRIT PETITION NO. 1509 OF 2014

Maharana Pratap Shikshan Sanstha,
Sevapur, Tahat Wadwal (Na),
Tq. Chakur Dist. Latur.

...PETITIONER

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

WRIT PETITION NO. 1130 OF 2014

Yeshwantrao Chavan Sevabhavi
Bahuuddeshiya Sanstha, Latur.

...PETITIONER

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

WRIT PETITION NO. 1086 OF 2014

Yeshwantrao Chavan Sevabhavi
Bahuuddeshiya Sanstha, Latur.

...PETITIONER

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

WRIT PETITION NO. 1603 OF 2014

Yeshwantrao Chavan Sevabhavi
Bahuuddeshiya Sanstha, Latur.

...PETITIONER

VERSUS

The State of Maharashtra
and others.

...RESPONDENTS

...

Mr. V.D. Salunke, Advocate for petitioners.

Mr. S.S. Tope, A.G.P. for respondent/State.

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**CORAM: S.S. SHINDE &
V.K. JADHAV, JJ.**

DATE : 18th MARCH, 2014

PER COURT :

. In fact, all these matters were heard and reserved for

orders. However, the matters were mentioned by the learned Counsel appearing for the petitioners on 14/03/2014 so as to enable him to bring to the notice of this Court earlier orders passed by this Court and also relevant Government Resolutions. Accordingly, matters are listed today in 'Orders' caption so as to hear the learned Counsel appearing for the petitioners and also learned A.G.P.

2. The learned Counsel appearing for the petitioners invited our attention to the judgment of the Division Bench at Principal Seat in Civil Writ Petition No. 7328 of 2007 (Shree S.P. Jagtap Guruji Muk Badhir Vidya Prasarak Mandal vs. State of Maharashtra and 2 others) with connected writ petition bearing W.P. Nos. 7329/2007, 7331/2007, 7351/2007, 7353/2007 and 7354/2007 and submits that, in spite of giving directions by this Court on 06/06/2008 in said writ petitions to be complied within stipulated period, from the date of passing of that order, till date the State has not taken any decision in pursuant to the said judgment. The learned A.G.P. appearing for the State fairly

concedes that, State has not yet taken any decision.

3. In paragraph-6 of the judgment dated 06/06/2008 of the Division Bench of this Court at Principal Seat, in Civil Writ Petition No. 7328 of 2007 and connected writ petitions thereto, following directions were issued to the State Government. Paragraph-6 of the said judgment reads thus :

"6. The issue of excess members of the staff viz. 2714 is required to be resolved by the Government. The Government can resolve the said issue in any of the following manner :

(i) Continue the surplus staff in the employment of the said institutions on grantable basis till their retirement and/or resignation and/or otherwise removal by the Management;

OR

(ii) The Government may decide to absorb the

surplus staff in the vacancies which will arise in the existing schools/institutions and/or in the schools/institutions newly granted by the Government. Till such absorption, they may be continued in the existing institutions.

OR

(iii) The Government may decide to absorb them in the service of other departments where the vacancies are available, suitable to them;

OR

(iv) The Government may decide to retrench them from service keeping them on the waiting list to be absorbed whenever vacancies are available in the old schools/institutions as per the new staffing pattern.

(v) What decision regard is a prerogative of the Government. However, we find that the issue is pending since 2004 we issue following directions :

(a) The Government shall take the decision either way or take any other decision as would be suitable to them in this regard within a period of two months from today.

(b) The said decision shall be taken in concurrence with the Finance Department. It is made expressly clear that the Finance Department shall not try to prolong the issue unnecessarily and the Finance Department will decide all the issues within a period of two weeks.

(c) The Commissioner of Disability shall implement the Government decision within a period of three months after such decision is taken by the Government and complete the issue of implementation of the new staffing pattern.

(d) We make it clear that no extension in this regard will be granted by this court either to the Government or to the Commissioner because the Government has already exhausted inordinate time in implementation of the new staffing pattern".

4. It is a matter of regret that, in spite of aforementioned directions by this Court in Writ Petition No. 7328 of 2007 and connected writ petitions thereto, on 06/06/2008, the State Government yet has not acted on the said directions, and has not taken any decision. In fact, this Court while disposing of the said writ petitions, in clause (a) had given direction that, the Government shall take decision either way or take any other decision as would be suitable to them in this regard within a period of two months from 06/06/2008 and thereafter, in clause (b) of the operative order, it is observed that, Finance Department shall not try to prolong the issue unnecessarily and said department to decide all issues within period of two weeks and thereafter direction is given to the Commissioner of Disability to

implement the Government decision within a period of three months after such decision is taken by the Government and complete the issue of implementation of the new staffing pattern.

5. In the light of discussion hereinabove, in our opinion, the Principal Secretary or Secretary, Social Welfare and Special Assistance Department, Maharashtra State, Mantralaya, shall file affidavit within three weeks from today. We have granted three weeks time to the Principal Secretary/Secretary to file his affidavit in reply in all writ petitions, failing which, this Court would be constrained to pass appropriate orders summoning the Chief Secretary, Government of Maharashtra to appear in the matters and take cognizance of the order passed by this Court on 06/06/2008 in Writ Petition No.7328/2007 and other connected writ petitions thereto.

6. The petitioners, if desire to file rejoinder in reply to the affidavit in reply filed by the Social Welfare Officer, Latur, they can do so. Hearing of these petitions is deferred to 17/04/2014.

7. Since this Court in number of writ petitions having identical challenge, have granted interim relief, we are inclined to grant ad-interim relief in terms of prayer clause (B) till then. Accordingly, ad-interim relief in terms of prayer clause (B) till then.

. Parties to act upon authenticated copy of this order.

[V.K. JADHAV, J.]

[S.S. SHINDE, J.]

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