



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.8231 OF 2023

WITH

WRIT PETITION No.7792 OF 2023

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WRIT PETITION No.8231 OF 2023

1. Dattatraya S/o Uddharvrao Kavar,  
Aged about 52 years, Occu. Service.
2. Naresh S/o Vijay Chavan,  
Aged about 33 years, Occu. Service.
3. Shailesh S/o Vijay Chavan,  
Aged about 28 years, Occu. Service.

All R/o At & Post Kondhala (Mahali),  
Tq. & Dist. Washim.

: PETITIONERS

...VERSUS...

1. The Deputy Director of Education,  
Amravati Division, Amravati.
2. The Education Officer (Secondary),  
Zilla Parishad, Washim,  
Tq. & Dist., Washim.
3. The Superintendent, Pay Unit, (Sec.)  
Washim, Tq. & Dist. Washim.
4. Pradip S/o Prabhakarrao Deshmukh,  
Aged about 70 years, Occu. Retired,  
Narayannagar, Vitthalwadi,  
Plot No. 10, Kathora Road, Amravati.

5. Janta Bahuuddeshiya Shikshan Prasarak Mandal,  
Kondala, Tah. and District- Washim,

Amended as per  
Court's order  
dt.13.12.2023.

through its Secretary.

Added Intervenor/Respondent No.6

vide Court's order dated 26.9.2024 and 30.9.2024.

Amendment as per  
Court's order  
dt.26.9.2024.

6. Sarita Pralhadrao Kurkute,  
aged about 35 years, Occ.Nil,  
R/o.C/o.Sanjay Wamanrao Chopade,  
near Dattatray Temple Ward No.13,  
Laxmi Nagar, Buldana,  
Tahsil & Dist. Buldana.

: RESPONDENTS

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Mr. P.B. Patil, Advocate for Petitioners.

Mr. N.R. Patil, Assistant Government Pleader for Respondent Nos.1 to 3.

Mr. Raju Kadu, Advocate for Respondent No.5.

Mr. Shashi Bhushan Singh, Advocate for Respondent No.6

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WITH

WRIT PETITION No.7792 OF 2023

Janta Bahu Uddeshiya Shikshan Prasarak Mandal,  
Kondala, Tahsil & District Washim,  
Through its Secretary,  
Shri Vijay Sitaramji Chavan,  
Aged about 64 years,  
Resident of Ward No.1, Charakha Layout,  
Kata Road, Washim,  
Tahsil & District Washim (444505)

: PETITIONER

...VERSUS...

1. State of Maharashtra,  
Through Deputy Director of Education,  
Amravati Division Amravati,  
Tope-nagar, Amravati (444602),  
Tahil and District Amravati.
2. Education Officer (Middle),  
Zilla Parishad, Washim,

Tahsil and District Washim.

3. Superintendent,  
Pay and General Provident Fund Squad,  
Washim, Tahsil and District Washim.
4. Shri Pradip S/o Prabhakarrrao Deshmukh,  
aged about 70 years, Occupation: Retired,  
Resident of Narayan-nagar, Vitthalwadi,  
Plot No.10, Kathora Road, Amravati,  
Tahsil and District Amravati.

Added interventions/Respondent No.5  
vide Court's order dated 26.9.2024 and 30.9.2024.

Amendment carried  
out as per Court's  
order dt.3.10.2024.

5. Sarita Pralhadrao Kurkute,  
Aged About 35 Years, Occ- Nil,  
R/O. C/O Sanjay Wamanrao Chopde,  
Near Dattatray Temple Ward No 13,  
Laxmi Nagar Buldana, Tahsil &  
Dist. Buldana.

: RESPONDENTS

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Mr. Raju Kadu, Advocate for Petitioners.

Mr. N.R. Patil, Assistant Government Pleader for Respondent Nos.1 to 3.

Mr. N.S. Warulkar, Advocate for Respondent No.4.

Mr. Shashi Bhushan Singh, Advocate for Respondent No.5

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**CORAM** : **SMT. M.S. JAWALKAR AND**  
**NANDESH S. DESHPANDE, JJ.**  
**RESERVED ON** : **27<sup>th</sup> MARCH, 2026.**  
**PRONOUNCED ON** : **08<sup>th</sup> MAY, 2026.**

**JUDGMENT** : (Per : NANDESH S. DESHPANDE, J.)

1. Rule. Rule made returnable forthwith. Heard finally  
with the consent of parties.

2. Both these petitions challenge same order passed by

the respondent No.1 Deputy Director of Education, Amravati Division, Amravati on 31/10/2023. While Writ Petition No.8231/2023 is by the employees aggrieved by the decision of the Deputy Director Writ Petition No.7792/2023 is by the Management.

3. Facts, which can be seen from the both the petitions, are as under :

In the year 2004, the respondent No.5 in Writ Petition No.8231/2023 established a School, namely, Dnyaneshwar Mauli Vidyalaya, Kondhala (Mahali), Taluka and District Washim and started a College, namely, Manohar Naik Junior College in the year 2008. The petitioners herein who are the employees of the said School and College respectively came to be appointed on various dates. The petitioner No.1 came to be appointed in the School and was subsequently promoted as Head-Master in the year 2010. The petitioner No.2 came to be appointed as Assistant Teacher in the High School in 2013 and has been working till date. The petitioner No.3 was appointed as a Laboratory Assistant in the said Junior College in the year 2015 and is working since from the said date. The appointments of the petitioners have been approved by the Education Officer by following due process of law. Thus, in the backdrop of these facts, the respondent No.4 in Writ Petition

No.8231/2023 i.e. Pradeep Prabhakar Rao Deshmukh made a complaint with the Office of the Deputy Director that there are certain irregularities in the appointments of the petitioners.

4. It is stated in the petition that on 26/10/2023 the respondent No.2 i.e. the Education Officer summoned the petitioners in his office and handed over a copy of notice dated 18/10/2023 and instructed them that they will have to appear before the respondent No.1 i.e. the Deputy Director on 31<sup>st</sup> October, 2023. As is stated in the petition, the perusal of said notice does not indicate anything more than the fact that the petitioners are called to appear before the Deputy Director on 31<sup>st</sup> October, 2023.

5. In pursuance to the said notice, the petitioners appeared before the respondent No.1 on the said date and requested to supply copy of the complaint given by the respondent No.4 so that they could reply the same. But, the respondent No.1 flatly refused to do the same and asked the petitioners to make their submissions then and there only. Thus, the petitioners were forced to participate in the proceedings. The respondent No.1 thereafter passed an order on the same day, i.e. 31<sup>st</sup> October, 2023 thereby staying the order dated 27/03/2023 extending benefit of 20% grants to their school.

6. In pursuance to the said order, the respondent No.2 i.e. the Education Officer issued a communication on 01/11/2023 and the respondent No.3 issued a letter on 06/11/2023.

7. By way of amending the petition, the petitioners have brought subsequent events on record. The said subsequent events pertain to the facts which have occurred during the pendency of the petition. As can be seen from the said averments, matter was mentioned before this Court and circulation was granted on 13<sup>th</sup> December, 2023. However, even though this fact was intimated to the respondents, in a most hurried manner, an order was passed on 12/12/2023, i.e. before a day when the matter was supposed to come up before this Court. By way of said order which is also impugned in the petition, the approval of petitioner No.3 has been also cancelled. All these orders are subject matter of challenge in the present petition. As far as Writ Petition No.7792/2023 is concerned, the basic order dated 31<sup>st</sup> October, 2023 is challenged at the behest of the Management.

8. In Writ Petition No.8231/2023, we have heard Mr. P.B. Patil, learned counsel for the petitioners, Mr. N.R. Patil, Assistant Government Pleader for respondent Nos.1 to 3, Mr. Raju Kadu, learned counsel for the respondent No.5 and Shashi Bhushan Singh, Advocate for Respondent No.6.

9. In Writ Petition No.7792/2023, we have heard Mr. Raju Kadu, learned counsel for the petitioners, Mr. N.R. Patil, Assistant Government Pleader for Respondent Nos.1 to 3, Mr. N.S. Warulkar, learned counsel for the respondent No.4 and Mr. Shashi Bhushan Singh, learned counsel for the respondent No.5.

10. Mr. P.B. Patil, learned counsel for the petitioners submits that the respondent No.1 and the respondent No.2 have acted in a most erratic manner since they failed to appreciate that the respondent No.4 i.e. the original complainant had no locus to file a complaint. He further submits that principles of natural justice are blatantly violated in the entire exercise since no sufficient opportunity was given to the petitioners to put forth their claim and the order impugned was passed in a hasty manner. He also submits that the manner in which the respondent No.1 has proceeded to pass an order on 12/12/2023, even though being aware of the fact that this Court is hearing the matter on the next day is a pointer to the fact that the respondent No.1 is nurturing malafide intentions against the petitioners at the behest of the respondent No.4.

11. He places reliance on a judgment of the Principal Seat of this Court in **Writ Petition No.2492/2024 (Nishant Namdeorao Gatkhal and another Vs. The State of Maharashtra and others)** and

also judgment of the Hon'ble Apex Court reported in **2013 (4) Mh.L.J. 561 (Ayaaubkhan Noorkhan Pthan Vs. State of Maharashtra)**, Judgment in Writ Petition No.10133/2016 of the Principal Seat along with connected Writ Petitions (Mrs. Shivaneer Prasanna Deshpande Vs. The State of Maharashtra and others).

12. Per contra, the learned Assistant Government Pleader appearing for the respondent No.1 to 3 support the impugned action of the respondents. It is the submission of the Assistant Government Pleader that the complaint of the respondent No.4 pointed out certain glaring irregularities. The Commissioner of Education sent it to the respondent No.1 for further course of action. After the respondent No.4 was verified, notices were issued to all concerned and hearing was given. It is, therefore, the submission of the Assistant Government Pleader that no fault can be found as glaring illegalities were found in the entire process of appointing and approval of the petitioners. The respondent No.4 by filing its reply has also opposed the contentions canvassed by the learned counsel for the petitioners. It is his submission that it was noticed by the respondent No.4 that the entire working of the School and College run by the Education Society is in blatant violation of the provisions of law and, therefore, he made a detail



complaint along with all material particulars. He submits that acting on the said complaint, the Authorities have issued notices to the concerned persons and after hearing their explanation has passed the order. In nutshell, he also supports the impugned orders.

13. We have carefully considered the contentions advanced by the learned counsels for the respective parties.

14. As far as the locus of the respondent No.4 in filing complaint is concerned, the affidavit-in-reply of the respondent No.4 would be worthy of mentioning. In his affidavit he has stated that he he was working as a Branch Manager in Gramin Bank and superannuated on 31<sup>st</sup> July, 2015. After retirement he is engaged in social service and works as R.T.I. activist. It is, therefore, clear that the respondent No.4 has no locus, even remotely, with the affairs of the Trust. As pointed out by the learned counsel for the petitioners that in Writ Petition No.2492/2024 mentioned supra, a coordinate Bench of this Court by relying on a Government Notification dated 14<sup>th</sup> October, 2019 has specifically held that no complaint at the behest of third person can be entertained with respect to the working of the Trust. The scathing observations of the coordinate Bench are found in para 9.

“9. *We were contemplating suo moto*

*action against Respondent No.6, since we find that though he was aware of our earlier orders referred to in the above paragraphs, for reasons best known to him, he has wholeheartedly entertained the applications of Respondent No.5 and has highhandedly issued an order to register an FIR against one senior member of the Management.”*

It is also noteworthy to mention that Government Circular dated 14<sup>th</sup> October, 2019 specifically points out that the grievances regarding any injustice has to be made by the person who is aggrieved and no third party applications should be entertained. This is also in line with the Government Resolution dated 18<sup>th</sup> February, 2025 which has been placed before us. The averments in the said Government Resolution dated 18<sup>th</sup> February, 2025 are clear enough that the person who is not related with the subject matter at his behest no complaint should be entertained.

15. The law regarding locus has been sufficiently enunciated by the Hon’ble Apex Court in the judgment of *Ayaaubkhan Noorkhan Pathan* referred supra in which in para 7 and 8 the Hon’ble Apex Court has specifically observed that a stranger cannot be permitted to meddle in any proceedings unless he satisfies the authority/Court that he falls within the category of aggrieved persons. The said paras are reproduced for the brevity.

7. *It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the Authority/Court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a Court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for enforcement, on the basis of which writ jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the Courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. Infact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. [Vide: State of Orissa vs. Madan Gopal Rungta, AIR 1952 SC 12; Saghir Ahmad and anr. vs. State of U. P., AIR 1954 SC 728; Calcutta Gas Company (Proprietary) Ltd. vs. State of W. B. and ors., AIR 1962 SC 1044; Rajendra Singh vs. State of M. P., AIR 1996 SC 2736; and Tamilnad Mercantile Bank Shareholders Welfare Association (2) vs. S. C. Sekar and ors., (2009) 2 SCC 784].*

8. *A "legal right", means an entitlement arising*

*out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised. [Vide: Shanti Kumar R. Chanji vs. Home Insurance Co. of New York, AIR 1974 SC 1719; and State of Rajasthan and ors. vs. Union of India and ors., AIR 1977 SC 1361)."*

It is thus clear that the respondent No.4 had no locus.

16. Furthermore, as can be seen from the show cause notice, it does not spell out any specific misconduct or omission on the part of the petitioners to which they are supposed to reply. The law relating to said show cause notice has been time and again enunciated by this Court as also by the Hon'ble Apex Court. One of the judgment is reported in **(2022) 3 Mh.L.J. 576 (Suresh Eknath Kudalkar Vs. State of Maharashtra and others)** in which a coordinate Bench of this Court has held that in order to invoke the ground of fraud or misrepresentation or suppression of fact, reference to the same must be made in the show cause notice and the party whose rights are sought to be taken away must be given a reasonable opportunity of dealing with the same. If the show cause notice is perused, we are unable to persuade ourselves that the said show cause notice complies the said requirements. Same is the

judgment of Principal Seat of this Court in Writ Petition

No.219/2022 in which in para 14 it is observed as under :

*“14. It is seen that in order to support the decision, reliance has been placed on the Government Resolution dated 23rd August, 2017. The said Government Resolution came to be issued after considering judgment of this Court delivered on 1" August, 2017 in Writ Petition No.10133 of 2016. This Government Resolution fell for consideration of this Court in the case of Ansari Amina Muzhar Ali Vs. State of Maharashtra and others in Writ Petition No.1380 of 2019 and in the connected matters. This decision was considered by this Court again in Writ Petition No.1491 of 2021 in the case of Bhushan Vikas Gawad Vs. State of Maharashtra with other connected Writ Petitions. It is to be noted that the powers of review as per the Government Resolution cannot be used arbitrarily and in unjust manner. 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 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.”*

17. Furthermore, it is a settled principle of law that unless a power of review is granted to a particular authority, there is no inherent power of review. The respondent No.1 has in fact reviewed the approvals already granted without there being any express power of review conferred upon him. The order therefore cannot be sustained on this ground also. As has been rightly pointed out by the learned counsel for the petitioners that in the judgment of **Girjesh Shrivastava and others Vs. State of Madhya Pradesh and others (2010) 10 SCC 707** a dispute related to selection and appointment cannot be agitated by a third person and even a public interest litigation is not maintainable regarding the said matter.

18. Thus, taking overall view of the matter, the order cannot be sustained looking from any angle. We are at pains to record that the Deputy Director has acted *de hors* any authority and in spite of being aware of the Government Resolution and the Circular referred supra that no third party can intermeddle with the affairs of the Trust or the working of the Schools/College. He has entertained a complaint and has passed an order dated 31<sup>st</sup>

October, 2023. He has further proceeded to pass an order on 12/12/2023 being well aware of the fact that the this Court is in seine of the matter. We, therefore, think it fit to impose exemplary costs on the respondent Nos. 1 and 2 as also the respondent No.4 so that such exercise would not be repeated in future.

19. In that view of the matter, we pass the following order :

### **ORDER**

(i) The Writ Petition No.8231/2023 and Writ Petition No.7792/2023 are allowed.

(ii) The order dated 31<sup>st</sup> October, 2023 passed by the respondent No.1 is quashed and set aside. Likewise, the order dated 12/12/2023 passed by the respondent No.1 is also quashed and set aside.

(iii) It is declared that the action of the respondent No.1 in entertaining the grievance made by the respondent No.4 is without any authority of law.

(iv) We impose cost of Rs.10,000/- each on the respondents Nos.1,2 and 4 to be paid in the 'Public Welfare Account' bearing Account No.129712010001014 (IFSC Code : UBIN0812978) in the Union Bank of India, Branch High Court, Civil Lines, Nagpur, within four weeks from today and report

compliance of order of this Court.

(v) If the cost is not paid within the time as aforesaid, the same would be recovered by the Registry of this Court as fine imposed.

(vi) Both the Writ Petitions are disposed of.

(vii) Rule is made absolute in aforestated terms.

**(NANDESH S. DESHPANDE, J.)**

**(SMT. M.S. JAWALKAR, J.)**