

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**DISTRICT : MUMBAI**

**REVIEW APPLICATION NO. 21 OF 2018  
(for Review of Order dtd. 4.10.2018)**

**IN**

**ORIGINAL APPLICATION NO. 634 OF 2017**

1. The State of Maharashtra through  
The Additional Chief Secretary,  
School Education and Sports Department  
Mantralaya, Mumbai – 400 032. ... APPLICANT  
(Org. Respondent No.1)

**V/s.**

1. Shri Shrikant Dhondu Sutar  
Age : 43, Occupation : Zilla Parishad Service  
Working as Asst. Teacher  
Address :  
G-6/1, Manapa Vasahat, Shahu Nagar  
Jasmin Mill Road, Mahim (East)  
Mumbai – 400 017.
2. Shri. Namdev Kundlik Gaikwad,  
Age: 42 Occupation : Zilla Parishad Service,  
Working as Asstt. Teacher.  
Address:  
Flat NO.2, Dnyanamrut Hsg. Society,  
At.Post Devachi Alandi, Tal. Khed,  
Dist. Pune.
3. Smt. Rohini Shivaji Gavhane,  
Age: 41, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
B-2/7, Narayan Hut Society, Jay Ganesh Samaraja,  
Bhosri, Pune- 411 039.
4. Smt. Sharmila Dharpal Nandre,  
Age: 45, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
At post Koyali, Tal. Shrirol,  
Dist. Kolhapur - 412 210.

5. Shri. Rajram Narayan Chore,  
Age: 44, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
Shivkripa Shikshak Society, Ramling Road,  
Tal. Shirur, Dist. Pune, Pin - 412210.
6. Shri. Dattatraya Dagadu Gaddare,  
Age: 47, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
At. Jambhali Mala, Post Tandobachi Wadi,  
Tal. Shirur, Dist. Pune, Pin -412 210.
7. Shri. Balasaheb Dhondiba Aswale,  
Age: 46, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
At. Nimgaon Bhogi, Tal. Shirur, Dist. Pune.  
Pin - 412220.
8. Shri. Sandeep Ramlal Gadhari,  
Age: 41, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
Matruchhaya, Kartavya Hospital Road,  
Kolegaon, Post. Nilje, Tal. Kalyan,  
Dist. Thane- 421 204.
9. Shri. Daulat Bhikaji Koyande,  
Age: 41, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
04/31, Hirji Govindaji Chal, T.J. Road,  
Zakeriya Bandar, Shivadi,  
Mumbai - 402 705.
10. Shri. Vasant Dinkar Raskar,  
Age: 46, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
D-2, 2/1, Saptrang Society, Sector-7,  
Sanpada, Navi Mumbai- 402 705.
11. Shri. Ramdas Tathoba Gend,  
Age: 44, Occupation: Zilla Parishad Service,  
Working as Asst Teacher,  
Address:  
PL-5 /10/5, Sector-17, Cidco Colony,  
Navin Panvel, Dist. Raigad- 410 206.

... RESPONDENTS  
(Org. Applicants)

12. Secretary  
Maharashtra Public Service Commission  
Mumbai – 400 001. ... Org. Respondent No.2
13. The Commissioner  
Education, Maharashtra State  
Central Building, Ani Bezent Road  
Pune – 411 001. ... Org. Respondent No.3
14. Block Development Officer  
Panchayat Samittee, Kalyan ... Org. Respondent No.4
15. Chief Executive Officer  
Zilla Parishad, Kalyan ... Org. Respondent No.5

Ms Swati Manchekar, learned Chief Presenting Officer for the Applicants (Ori Respondents).

Shri C.T Chandratre, learned advocate for the Respondents (Ori Applicants).

**CORAM** : **Shri Justice A.H Joshi (Chairman)**  
**Shri P.N Dixit (Member) (A)**

**RESERVED ON** : **04.01.2019**

**PRONOUNCED ON** : **01.02.2019**

**PER** : **Shri Justice A.H Joshi (Chairman)**

### **J U D G M E N T**

1. Heard Ms Swati Manchekar, learned Chief Presenting Officer for the Applicants (Ori Respondents) and Shri C.T Chandratre, learned advocate for the Respondents (Ori Applicants).

2. The State has filed application seeking review of common judgment and order in O.A 634/2017 & Ors.

3. This Review Application is orally opposed by the Respondents (Ori Applicants) in O.A 634/2017

4. The ground on which review is sought is narrated in paras 2 to 4 of the Review Application.

5. It would be possible to summarize the said ground as follows:-

The judgment and order of this Tribunal dated 4.10.2018 is based on the text of Annexure IV, Part-I of Maharashtra Zilla Parishad (District Services) Recruitment Rules, 1967, as quoted in para 28 of the judgment, was not in existence on the date of judgment, since the said rule was already amended, whereby Primary Teachers included in the said appendix did not any more continue to qualify.

6. The copy of amended notification is placed on record by the applicants (Ori Respondents), as Exh. RA-2, which is at page 70

7. If the text of Appendix-IV of Maharashtra Zilla Parishad (District Services), Recruitment Rules, 1967 which is substituted by amendment relied upon by the State & M.P.S.C. is seen at the bottom and page 72 of paper book of O.A.

8. Clause (a) as seen in para 28 of the judgment and clause (b) and as amended, which is relied upon by the State are quoted juxta potion herein below:-

Page 66 of R.A (Old Rule)	Pages 71 & 72 of R.A. (New Amended Rule)
<p><i>(b) temporary transfer of suitable persons from among Assistant Teachers in District Technical Service (Class III) (Educational) and from amongst <b>Primary</b> School Teachers and Masters in District Service (Class III) (Subordinate Educational) who :-</i></p> <p>(i) <i>possess at least 3 years of post B. Ed. (or equivalent qualification) teaching experience in Primary or Secondary Schools, or a Junior College of Education,</i> Or</p> <p>(ii) <i>possess at least 3 years of post B. Ed. (or equivalent qualification) experience of inspection of <b>Primary</b> or Secondary Schools, or</i></p> <p>(iii) <i>possess 5 years teaching experience after passing the S.S.C examination and acquiring teacher's training qualification</i></p>	<p>(b) selection of a suitable candidate on the basis of merit list prepared on the basis of Limited Departmental Competitive Examination from amongst the candidates who:-</p> <p>(i) are from the cadre of <b><u>Primary Teachers or Secondary Teachers or Kendra Pramukh or Head Master (Primary)</u></b>; and</p> <p>(ii) possessing the educational and professional qualification mentioned in sub-clauses (ii), (iii) and (iv) of clause (a) of this rule; and</p> <p>(iii) possess not less than 3 years continuous service on the post of teacher either in Zilla Parishad or Municipal Council or Municipality.</p>

9. The words "**Primary School Teachers**" are printed in Italics and in capital in both above quotations.

10. The class of Primary Teachers continues to be a part of eligible class. The aforesaid being the factual aspect as to what is the exact provisions of law, the Review Application is based on a notional grudge than actual error.

11. Review Application is devoid of merit and is dismissed.

**Sd/-**  
**(P.N Dixit)**  
**Member (A)**

**Sd/-**  
**(A.H. Joshi, J.)**  
**Chairman**

**Place : Mumbai**  
**Date : 01.02.2019**  
**Dictation taken by : A.K. Nair.**

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