



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

WRIT PETITION NO.6294 of 2026

1. The Headmaster,
Sadguru Narayangiri Vidyalaya,
Virgaon, Tq. Vaijapur,
Dist. Chh. Sambhajinagar.
2. Kisan Yashwant Atre,
Age: 49 years, Occu.: Service,
R/o. Virgaon, Tq. Vaijapur,
Dist. Chh. Sambhajinagar. ...Petitioners

VERSUS

1. The State of Maharashtra,
Through its Secretary,
School Education Department,
Government of Maharashtra,
Mantralaya, Mumbai-32
2. The Deputy Director of Education,
Chh. Sambhajinagar.
3. The Education Officer (Secondary),
Zilla Parishad, Chh. Sambhajinagar. ...Respondents

...

Mr. Chandrakant K. Shinde, Advocate for the Petitioners.
Mr. S. K. Tambe, AGP for the State

...

**CORAM : NITIN B. SURYAWANSHI
AND
ABASAHEB D. SHINDE, JJ.**

**RESERVED ON : 18.08.2026
PRONOUNCED ON : 23.09.2026**

JUDGMENT (Per Abasaheb D. Shinde J.) :-

1. Rule. Rule made returnable forthwith. With the consent of the parties, the Writ Petition is heard finally at the stage of admission.

2. By the present Writ Petition filed under Article 226 of the Constitution of India, the Petitioners have put forth the following main prayers :

B) It be held and declared that, the promotion order dated 01/06/2025 promoting the petitioner no. 2 from the post of Sevak/Peon to Assistant Teacher is legal and proper; hence, deserves to be granted approval by the respondent no. 3 - the Education Officer (Secondary), Zilla Parishad, Chhatrapati Sambhajanagar.

C) By issue of writ of mandamus or any other appropriate writ, order or direction in the like nature, the respondent no. 3 - the Education Officer (Secondary), Zilla Parishad, Chhatrapati Sambhajanagar may kindly be directed to grant approval to the promotion of the petitioner no. 2 as an Assistant Teacher and release his monthly salary.

D) By issue of writ of certiorari or any other appropriate writ, order or direction in the like nature, the impugned order dated 04/09/2025 issued by the respondent no. 3 - the Education Officer (Secondary), Zilla Parishad, Chhatrapati Sambhajanagar and order dated 23/04/2026 issued by the respondent no. 2 - the Deputy Director of Education, Chhatrapati Sambhajanagar, may kindly be quashed and set aside in the interest of justice.

FACTUAL MATRIX :

3. It is the case of the Petitioners that, Petitioner No. 1 is the Headmaster of Sadguru Narayangiri Vidyalaya, Virgaon, Tq. Vaijapur, Dist. Chhatrapati Sambhajanagar,

which is a secondary school run and administered by a private management. Petitioner No. 2 possesses the qualification of BA. B.Ed. and was initially appointed as a Peon in the Petitioner No. 1 - School w.e.f. 01.07.1996, on probation. Upon completion of the probation period, his services were confirmed as a permanent employee on a no-grant-aid basis. Respondent No. 3 granted approval to his permanent appointment vide order dated 27.08.2009. Respondent No.2 has also issued a Shalarth ID in his favour.

4. It is further the case of the Petitioners that one Assistant Teacher, namely, Sayyad Majak Begubhai, serving in the said School, superannuated on 31.05.2025. The School Management, in its meeting dated 23.06.2025, resolved to promote Petitioner No. 2 to the said post by virtue of Clause 8 of the Government Resolution dated 10.06.2005 (for short hereinafter called as "Government Resolution of 2005"). Accordingly, the Management promoted Petitioner No.2 as an Assistant Teacher w.e.f 01.06.2025. The Management submitted a proposal seeking approval of the said promotion to Respondent No.

3 on 09.07.2025.

5. Respondent No. 3, by the impugned order, rejected the said proposal thereby refusing to grant approval to the promotion of Petitioner No. 2 on the ground that the post on which Petitioner No. 2 was promoted ought to have been filled through the Pavitra Portal.

6. Being aggrieved by the said decision, Petitioner No. 2 preferred an appeal before the Divisional Grievance Redressal Committee headed by Respondent No. 2 - the Deputy Director of Education. Upon hearing the parties, Respondent No. 2, vide order dated 23.04.2026, remanded the proceedings to Respondent No. 3 for decision afresh in accordance with the Government Resolution of 2005 and the Government Resolution dated 25.03.2026 (for short hereinafter called as "Government Resolution of 2026"). The Petitioners, therefore, have approached this Court.

SUBMISSIONS :-

7. Learned Counsel for the Petitioners submits that, Petitioner No. 2 is duly qualified for being promoted to the post of Assistant Teacher and was accordingly promoted

after following the due procedure of law. He further submits that, when Petitioner No. 2 was promoted, the Government Resolution of 2005 was in vogue, which provides for promotion of an employee from a non-teaching post to a teaching post. Since the said promotion is not a fresh appointment, the same need not be made through the Pavitra Portal. He further submits that, the Appellate Authority was also not justified in remanding the matter back in view of the Government Resolution of 2026. He has placed reliance on the orders passed by the Coordinate Bench of this Court in Writ Petition No. 3167 of 2019, as well as by the Nagpur Bench in Writ Petition No. 7706 of 2022, to contend that promotion from a non-teaching post to a teaching post is permissible. He therefore, urged that the impugned orders are unsustainable and deserve to be quashed and set aside.

8. Per contra, learned AGP supported the impugned orders.

CONSIDERATION :-

9. We have heard learned Counsel for the Petitioners and learned AGP and have perused the record.

10. It is pertinent to note that the Government Resolution of 2005 was issued for implementation of the scheme of Shikshan Sevak in private aided Secondary and Higher Secondary Schools as well as Junior Colleges. Clause 8 of the said Government Resolution, which permits promotion from a non-teaching post to a teaching post, reads thus :-

”८. शिक्षकेतर कर्मचाऱ्याने माध्यमिक शिक्षकांसाठी वा कनिष्ठ महाविद्यालयीन शिक्षकांसाठी आवश्यक ती शैक्षणिक अर्हता प्राप्त केली आणि जर त्या संवर्गाचे पद माध्यमिक शाळेत वा उच्च माध्यमिक शाळेत/कनिष्ठ महाविद्यालयात उपलब्ध असेल तर, अशा प्रकरणी सदरहू शिक्षकेतर कर्मचाऱ्यास शिक्षणसेवक म्हणूनच नियुक्ती द्यावी लागेल व त्यांना शिक्षणसेवकांचेच मानधन आणि इतर सर्व अटी व शर्ती लागू होतील. मात्र अशा शिक्षकेतर कर्मचाऱ्याची पूर्वीची सेवा ही सेवानिवृत्ती वेतनासाठी ग्राह्य धरता येईल.”

11. Admittedly, Petitioner No. 2 was promoted to the teaching post when the aforesaid Government Resolution was in vogue. Consequently, the promotion of Petitioner No. 2 is required to be considered in accordance with the Government Resolution of 2005.

12. Having held that Petitioner No. 2 is entitled to derive the benefits available under Clause 8 of the Government Resolution of 2005, it is necessary to examine the nature and effect of the said provision. The said Clause contemplates a promotional avenue to an employee

belonging to the non-teaching staff. The said Clause fell for consideration before this Court on several occasions, and more particularly in the case of ***Usha Baliram Masal Vs. Hind Seva Mandal*** (Writ Petition No.3167 of 2019) decided on 30.09.2019, wherein this Court observed thus:

5. The petitioner is seeking benefit of Government Resolution dated 10.06.2005, though the statute does not prescribe promotional channel from non-teaching to teaching staff, however, the State through it's School Education and Sports Department, Mantralaya, Mumbai has issued Government Resolution dated 10.06.2005. Clause 8 of the said Government Resolution reads thus-

"८. शिक्षकेतर कर्मचा-याने माध्यमिक शिक्षकांसाठी वा कनिष्ठ महाविद्यालयीन शिक्षकांसाठी आवश्यक ती शैक्षणिक अर्हता प्राप्त केली आणि जर त्या संवर्गाचे पद माध्यमिक शाळेत वा उच्च माध्यमिक शाळेत / कनिष्ठ महाविद्यालयात उपलब्ध असेल तर, अशा प्रकरणी सदरहू शिक्षकेतर कर्मचा-यास शिक्षणसेवक म्हणूनच नियुक्ती द्यावी लागेल व त्यांना शिक्षणसेवकांचेच मानधन आणि इतर सर्व अटी व शर्ती लागू होतील. मात्र अशा शिक्षकेतर कर्मचा-याची पूर्वीची सेवा ही सेवानिवृत्ती वेतनासाठी ग्राह्य धरता येईल."

Reading the said clause, it is manifest that a non-teaching employee after acquiring the qualification can be appointed as 'Shikshan Sevak' in the secondary school or the junior college and his earlier services shall be counted for the purpose of pension. The only rider is that he is to be appointed as 'Shikshan Sevak' and he would be paid honorarium as applicable to 'Shikshan Sevak'.

6. The Clause 8 read as it is, is in the nature of providing a promotional avenue to an employee of non-teaching staff. The Clause 8 clarifies that earlier services shall be counted for the purpose of pensionary benefits. It would not be a case of an appointment afresh but promoting a person from the non-teaching staff though as 'Shikshan Sevak'.

13. Relying upon the judgment of ***Usha Baliram Masal*** (supra) the Coordinate Bench of this Court at Nagpur in the case of ***Shri. Suhas s/o Rangraoji More Vs. State of***

Maharashtra and Others (Writ Petition No.7706 of 2022)

has taken a similar view. The relevant observations of the said judgment read thus :-

“16. In this regard, it needs to be noted that the petitioner was appointed as a Peon on a regular permanent post. His promotion as Shikshan Sevak deprives him of the pay scale as well as other service benefits that he enjoyed in the post of lower grade. Evidently, such promotion does not enhance his prospect but severally prejudices his interest in every way. This anomaly can only be obliterated by treating the promotional post as that of the Assistant Teacher and by granting regular pay scale and other service benefits enjoyed by Assistant Teacher, albeit, the promotional post is termed as Shikshan Sevak.

21. Under the circumstances, it is held that (i) Clause 8 of G.R. dated 10.06.2005, which stipulates promotion of non teaching staff as Shikshan Sevak on payment of honorarium is arbitrary and discriminatory. (ii) The petitioner is entitled to be appointed as Assistant Teacher with the prescribed pay scale at par with pay scale of other similarly placed promotees. (iii) Respondent No.5 - Management to modify the appointment order dated 29.10.2021 to the extent of appointing/promoting the petitioner as Assistant Teacher instead of Shikshan Sevak. (iv) Respondent No.5 – Management, is directed to submit the proposal to respondent No.4 for approval of appointment/promotion of the petitioner as Assistant Teacher with pay scale of Assistant Teacher within four weeks from the date of the order. (v) Respondent No.4 to consider the same as expeditiously as possible in any event within four weeks from the date of the receipt of the proposal.”

14. In view of the aforesaid legal position, the promotion of Petitioner No. 2 from the post of Peon to that of Assistant Teacher constitutes a promotion and not a fresh appointment, therefore, the concept of the Pavitra Portal would not be applicable. The promotion of Petitioner No.

2, therefore, deserves to be approved.

15. As far as the order passed by the Appellate Authority is concerned, the said Authority has remanded the matter to the Respondent No.3 for fresh consideration in view of the Government Resolution of 2026. However, in our view, the said Government Resolution of 2026 cannot be made applicable retrospectively to the petitioner's case, since the promotion of Petitioner No.2 was pursuant to the Government Resolution of 2005. In such circumstances, the remand of the matter for reconsideration on the basis of the subsequent Government Resolution is unwarranted. We are, therefore, inclined to set aside the order passed by the Appellate Authority.

16. In view of aforesaid discussion, we find that the impugned orders are unsustainable. We are, therefore, inclined to allow this Writ Petition. In the result, we pass the following order.

:: ORDER ::

(i) Writ Petition is allowed in terms of prayer
Clauses – B, C and D.

(ii) Respondent No. 3 shall undertake the exercise

of granting approval to the promotion of Petitioner No. 2 as an Assistant Teacher and release his salary within a period of three (3) months from the date of receipt of a copy of this order.

(iii) Rule is thus made absolute in the above terms.

(ABASAHEB D. SHINDE, J.) (N. B. SURYAWANSHI, J.)