



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIRCUIT BENCH AT KOLHAPUR  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2362 OF 2023

Nitin Shrikant Karade ]  
Age 57years, Occu : Service, ]  
R/o 38, ST Colony, Vijapur Road, ]  
At present working with Phulsing Naik ]  
Mahavidyalay, Pusud, ]  
District Yavatmal 445216. ]

...Petitioner.

Versus

1. The State of Maharashtra ]  
]
2. The Director (Vocational Education) ]  
Maharashtra State. ]  
]
3. The Joint Director, ]  
Vocational Education and Training, ]  
Regional Office, Ghole Road, ]  
Pune 411 004. ]  
]
4. District Vocational Education & ]  
Training Office, Solapur. ]  
]
5. Maharashtra Seva Sangh, ]  
13A, Sanmati Nagar, Vijapur Road, ]  
Solapur 413004. ]  
]
6. Shree Nutan Prashala, Vijapur Road, ]  
Solapur 413004. ]  
]
7. The Principal, ]  
Phulsing Naik Mahavidyalay, ]

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|------------------------------------|---|-------------------------------|
| Pusad, District Yavatmal 445216.   | ] |                               |
|                                    | ] |                               |
| 8. Janta Shikshan Prasarak Mandal, | ] |                               |
| Pusad, District Yavatmal 445216.   | ] | <b><u>...Respondents.</u></b> |

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Mr. C. G. Gavnekar, Senior Advocate (through V.C.) along with Shashank Mangale, Mr. Ashitosh Jambilkar and Ms. Prajakta Kamble for the Petitioner.  
Ms. Tejas J. Kapre, AGP for the Respondent-State.

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**Coram : ABHAY AHUJA &  
NEERAJ P. DHOTE, JJ.**

**Date : October 13, 2026.**

**JUDGMENT (Per ABHAY AHUJA, J.):**

1. Rule. Rule is made returnable forthwith. By consent of the parties, the matter is taken up for final disposal.
2. By this Petition filed under Articles 226 and 227 of the Constitution of India, the Petitioner has prayed for writ of mandamus against Respondents No. 1 to 4 to pay the Petitioner unpaid salary of 34 months and 18 days along with the interest of 9% p.a. and to give benefit of selection grade and increments as provided in the Government Resolution on completion of 12 years and 24 years of continuous service.
3. When the matter was heard on 11<sup>th</sup> September 2026, this Court had directed the Petitioner to satisfy this Court on the issue that even if the Petitioner is not allotted to any other institution, merely on being declared as surplus, the responsibility is upon the State authorities to make

payment of salary. Consequently, when the matter was heard on 24<sup>th</sup> September 2026, the matter was adjourned to 28<sup>th</sup> September 2026 to enable the learned AGP appearing for Respondent-State to address the Court on the issue of communication dated 4<sup>th</sup> May 2012 which was referred to in the decision of this Court in the case of ***Nirmala Namdeo Latpate Vs State of Maharashtra***<sup>1</sup>. Thereafter on 12<sup>th</sup> October 2026, the learned AGP sought time to revert on the decision in the said case as the learned Counsel for the Petitioner had submitted that the said decision covered the issue in the Petition and the matter is, therefore, listed today.

4. The Petitioner was appointed as a full-time lecturer in the Respondent No. 6 institute i.e. Shree Nutan Prashala Junior College on 6<sup>th</sup> September 1992 to which approval was granted by Respondent No. 3 on 27<sup>th</sup> January 1993 and by order dated 11<sup>th</sup> June 1993 by Respondent No. 5 – Maharashtra Seva Sangh continued the services of the Petitioner on a permanent basis from the academic year 1993 – 1994. For the academic year 2009 – 2010 the Respondents No. 5 and 6 institute abruptly stopped admissions for the XI standard and thereby the Petitioner and the other teachers holding permanent posts became surplus and were transferred to different institutions by an order dated 15<sup>th</sup> December 2010 issued by the Joint Director. Between 29<sup>th</sup> December 2010 to 24<sup>th</sup> January 2011, the

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1 Writ Petition No. 10383 of 2015 (Principal Seat), dated 18<sup>th</sup> June 2026.

services of the Petitioner were allotted to the Respondent No. 4's Office for conducting a survey and thereafter, the Petitioner was relieved from that post by order dated 25<sup>th</sup> January 2011. By order dated 23<sup>rd</sup> April 2013 issued by Respondent No. 2 – Director of Vocational Education, the Petitioner was directed to be accommodated in another junior college and was permitted to resume his duties. The Respondent No. 7 College issued an order dated 10<sup>th</sup>/11<sup>th</sup> May 2013 based on the aforesaid order directing the Petitioner to join the vacant post in the said College. The Petitioner was also directed to bring necessary documents including Service Book, last pay certificate, etc with him. The Petitioner presented himself and the said College permitted the Petitioner to resume his duties on 16<sup>th</sup> May 2013 as per order dated 23<sup>rd</sup> April 2013 and the said entry is made in the Service Book of the Petitioner annexed at Exhibit D. The Petitioner, thereafter continued to discharge his duties in the said College.

5. The Petitioner thereafter approached the authorities viz. Respondent No. 2 – Director of Vocational Education and Training, Pune vide letters dated 24<sup>th</sup> January 2014 and 14<sup>th</sup> November 2018, regarding the payment of salary from 1<sup>st</sup> June 2010 to 15<sup>th</sup> May 2013, however, since no response was received, this Petition came to be filed on 5<sup>th</sup> November 2022.

6. By the present Petition, the Petitioner is seeking payment of salary for the period from 1<sup>st</sup> June 2010 to 15<sup>th</sup> May 2013, excluding the period 19<sup>th</sup> December 2010 to 24<sup>th</sup> January 2011 (27 days) when the Petitioner received salary working for Respondent No. 4.

7. Mr. Gavnekar, learned Senior Counsel appearing for the Petitioner has invited our attention to the pleadings in the Petition and also taken us through the various exhibits annexed to the Petition and relied upon the decision of this Court in the case of *Vitthal Ramaling Nivargi Vs State of Maharashtra*,<sup>2</sup> submitting that this Court had directed the authorities to pay the Petitioner therein similar unpaid salary and that therefore a similar course of action be adopted in the present case as well. Mr. Gavnekar submits that the appointment of the Petitioner therein who was also one of the teachers in the same Respondent No. 6 institute and the Petitioner herein was approved on the same date i.e. 27<sup>th</sup> January 1993 and also similarly declared surplus. The Petitioner therein was thereafter accommodated in the vacant post of the other institution and was not paid the salaries for the period from 1<sup>st</sup> June 2010 to 9<sup>th</sup> December 2010 and from 16<sup>th</sup> January 2011 to 14<sup>th</sup> March 2013 and also not granted the selection grade similar to the Petitioner herein. It is submitted that by the said decision dated 27<sup>th</sup> September 2022, this Court directed the

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2 Writ Petition No. 368 of 2022 (Principal Seat), dated 27<sup>th</sup> September 2022.

Respondent No. 7 in the said Writ Petition i.e. Shree Nutan Prashala through its Principal to submit the salary bills in respect of the period which were not paid to him. The authorities on receipt of the said salary bills were directed to process the same within a period of 3 months. It has been submitted that the prayer of the Petitioner therein for selection grade was also granted by this Court directing the concerned college to consider the same. It is submitted that the case of the Petitioner is identical to the facts of the said case and the said decision is applicable to the case of the Petitioner.

8. Mr. Gavnekar further submits that a recent decision of this Court in the case of *Nirmala Namdeo Latpate (supra)* settles the issue raised in this case. It is submitted that this Court has clearly observed that by communication dated 4<sup>th</sup> May 2012, the State of Maharashtra has taken a decision that the teachers who are not responsible for the de-recognition of the institution should be absorbed in other schools and be paid salaries till such time the teacher is absorbed in another school and rejected the application of Rule 25A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

9. Ms. Kapre, learned AGP appearing for the Respondent-State has invited our attention to the Affidavit in reply filed by Respondents No. 3

and 4 reiterating that the Petitioner was declared surplus by the Respondent No. 6 without prior notice to or consent of Respondents No. 1 to 4 and that therefore the sole responsibility to pay the salary of the Petitioner from the period of 1<sup>st</sup> June 2010 to 14<sup>th</sup> May 2013, excluding the period from 28<sup>th</sup> December 2010 to 24<sup>th</sup> January 2011 is of the concerned Management.

10. The facts of this case are not in dispute. This Court in the case of *Vitthal Ramaling Nivargi Vs State of Maharashtra (supra)* in a similar fact situation decided in favour of the Petitioner and observing that, it was not the case of the Respondent that the Petitioner therein did not join after the order of repatriation was passed and held that there was no reason for not paying salary to the Petitioner for the period from 16<sup>th</sup> June 2011 to 14<sup>th</sup> March 2013 and as regards, the period from 1<sup>st</sup> June 2010 to 19<sup>th</sup> December 2010, it was not that the work not being available with the Respondent No.7 was due to the fault of the Petitioner and therefore, the Petitioner would be entitled to the salary not only from 1<sup>st</sup> June 2010 to 19<sup>th</sup> December 2010 but also on repatriation from 16<sup>th</sup> June 2011 to 14<sup>th</sup> March 2013. In the facts of this case as well, as can be seen, the Petitioner in the case of *Vitthal Ramaling Nivargi v. State of Maharashtra (supra)* was also similarly declared surplus and was transferred by order dated 15<sup>th</sup> December 2010 issued by the Joint Director and between 29<sup>th</sup> December

2010 to 24<sup>th</sup> January 2011, the services of the Petitioner were allotted to the office of the Respondent No.4 for conducting survey and thereafter, the Petitioner was relieved from that post by order dated 25<sup>th</sup> January 2011 for which period of 27 days, the Petitioner received salary. However, by order dated 23<sup>rd</sup> April 2013 issued by the Respondent No.2, the Petitioner was directed to be accommodated in another Junior College and the Respondent No.7 College issued order dated 10<sup>th</sup>/11<sup>th</sup> May 2013 directing the Petitioner to join the post of the said College of which entry is made in the service book which is not disputed and the Petitioner continued to discharge his duties in the said college. That it is between 1<sup>st</sup> June 2010 till 15<sup>th</sup> May 2013, excluding the period between 19<sup>th</sup> December 2010 to 24<sup>th</sup> January 2011 (the “said period”) is the period for which the Petitioner is seeking salary. In the facts of this case as well, there was no work provided for the Petitioner, it was not that the Petitioner was not willing to work but, there was no work for no fault of the Petitioner for the said period and same was the case with the Petitioner in the case of *Vitthal Ramaling Nivargi v. State of Maharashtra (supra)* and this Court had held that the Petitioner would be entitled to salary. Both the Petitioner herein and the Petitioner in the case of *Vitthal Ramaling Nivargi v. State of Maharashtra (supra)* were similarly placed and therefore, we propose to take the same course of action by holding that the Petitioner herein is entitled to

payment of salary for the period from 1<sup>st</sup> June 2010 to 15<sup>th</sup> May 2013, excluding the period 19<sup>th</sup> December 2010 to 24<sup>th</sup> January 2011 (27 days).

11. In our view, the recent decision of this Court in the case of *Nirmala Namdeo Latpate (supra)* also supports the issue raised in this Petition where the institute in which the Petitioner therein was employed was de-recognised, where no fault was attributed to the Petitioner for such de-recognition, on the ground that the trustees of the institution were not following rules and regulations and therefore on account of such de-recognition the Petitioner therein had become a surplus teacher. The communication dated 4<sup>th</sup> May 2012 referred to in the said case clearly states that if the teachers who are not responsible for de-recognition should be absorbed in another school and be paid salaries until they are absorbed in another school. In the facts of this case also no material has been placed before us to demonstrate that the de-recognition was due to the Petitioner. Since the Petitioner was not responsible for the de-recognition, in view of the decision in the case of *Nirmala Namdeo Latpate v. State of Maharashtra (supra)*, we see no reason as to why the Petitioner should not be paid for the period till which the said Petitioner was not absorbed in another institute/school.

12. The learned AGP appearing for the Respondent-State could not distinguish the decision of this Court in the case of *Nirmala Namdeo Latpate (supra)*. The learned AGP has neither been able to contradict the said communication dated 4<sup>th</sup> May 2012 nor its application to the facts of this case except to say that the Petitioner was declared surplus by the Respondent No. 6 without prior notice to or consent of Respondents No. 1 to 4 and that therefore the sole responsibility to pay the salary of the Petitioner from the period of 1<sup>st</sup> June 2010 to 14<sup>th</sup> May 2013, excluding the period from 28<sup>th</sup> December 2010 to 24<sup>th</sup> January 2011 is of the concerned Management. To our mind, in view of what has been observed in the decision of *Nirmala Namdeo Latpate (supra)*, it would not make any difference even if the Petitioner was declared surplus without prior notice of or consent of Respondents No. 1 to 4.

13. Ergo in view of the said judgments in the case of *Vitthal Ramaling Nivargi (supra)* and *Nirmala Namdeo Latpate (supra)* which squarely apply to the facts of this case, we do not intend to take any other view in this matter. The Respondent No. 6 – institute not having any work cannot be said to be the fault of the Petitioner and the communication dated 4<sup>th</sup> May 2012 of the State clearly states that the salaries of the teachers rendered surplus shall be paid until they are absorbed in another institute.

14. We accordingly pass the following order: -
- i. Petition is made absolute in terms of prayer clause (a).
  - ii. All payments due to the Petitioner including consequential benefits shall be granted to the Petitioner within a period of four weeks.
  - iii. The Respondents No. 1 to 4 to consider the Petitioner for grant of selection grade as per the norms.
  - iv. Rule is made absolute in the aforesaid terms.
  - v. No order as to costs.
  - vi. Parties to act upon an authenticated copy of this order.
  - vii. The Writ Petition accordingly stands allowed and disposed as above.

(NEERAJ P. DHOTE, J)

(ABHAY AHUJA, J.)