

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5625 OF 2026

Minakshi Jaywant Pardi & Ors.

...Petitioners

Versus

The State Of Maharashtra Thru. Secretary & Ors.

...Respondents

Mr. Ashwin R. Kapadnis for Petitioners.

Mr. P. P. Kakade, Addl. GP a/w Aditya R. Deolekar, AGP for Respondent-State.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 30th SEPTEMBER 2026

P.C.

1. This petition filed under Article 226 of the Constitution of India challenges an Order dated 7th March 2026 passed by Respondent No.2, Deputy Director of Education, whereby the proposal submitted by Petitioner No.2, Education Institution, in regard to Petitioner No.1 who is working as a Junior Clerk, seeking an approval to her appointment as a Shikshan Sevak, has been rejected.

2. The case of the Petitioners is that of the Petitioner No.1 holding a non-teaching post of Junior Clerk, subsequently, during the course of her having acquired all the requisite qualifications, she was lawfully appointed to the post of Assistant Teacher, hence, considering the applicable rules and regulations, approval ought to have been granted. This, in short, is the subject matter of the present petition.

3. The relevant facts are required to be noted. On 1st September 2006, Petitioner No.2, (Education Institution), following due process, appointed the

Petitioner No.1 on the aided post of Junior Clerk with effect from 1st September 2006 for a probationary period of two years. On 1st June 2007, Respondent No.3 Education Officer, vide order dated 1st June 2007, duly approved the said appointment of Petitioner No.1.

4. On 22nd April 2017, on account of termination of the services of the then Assistant Teacher, Shri B. N. Shirke, a vacancy on the post of Shikshan Sevak (Assistant Teacher – Probationary) had arisen in Petitioner No.3, Secondary and Higher Secondary School conducted by Petitioner No.2 Society. As Petitioner No.1 fulfilled all the requirements and qualifications, a resolution was passed by the Managing Committee of the Institution dated 20th May 2023 to appoint Petitioner No.1 on the vacant post of Shikshan Sevak, i.e. to appoint Petitioner No.1 from a non-teaching post to teaching post with effect from 1st June 2023.

5. In pursuance of such resolution, an appointment order was issued in favour of Petitioner No.1 [Exhibit 'F' Page No.43] appointing her as a Shikshan Sevak. The appointment order recorded that the Petitioner was appointed on the terms and conditions as set out in Government Resolution (GR) dated 10th June 2005. However, what is required to be noted in the appointment order is that, inadvertently, the word “उन्नयन” was incorporated.

6. Be that as it may, on 12th April 2024, the Headmaster of Petitioner No.3 submitted a proposal to Respondent No.2, Deputy Director of Education, seeking approval of Petitioner No.1's appointment. However, no decision was taken on such proposal. Petitioner No.1 hence was constrained to approach this Court by

filing Writ Petition No. 8835 of 2025, which came to be decided by an Order dated 9th July 2025, wherein this Court disposed of the said petition issuing directions to Respondent No.2 to decide the proposal within 45 days.

7. In pursuance of such direction, the Deputy Director of Education, after considering the material on record, has passed the impugned order dated 7th March 2026, rejecting the proposal. In these circumstances, the present petition is filed praying for the following substantive reliefs:

“(a) That this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other appropriate writ, order, or direction to call for the records and proceedings and be pleased to quash and set aside the order dated 7th March 2026 passed by the Respondent Divisional Deputy Director of Education.

(b) Pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to stay the effect, operation, and implementation of the order dated 7th March 2026 passed by the Respondent Divisional Deputy Director of Education, Mumbai Division, Mumbai.

(c) By suitable writ, order, or direction, this Hon'ble Court be pleased to direct the Respondent Deputy Director to grant individual approval to the said upgradation of the Petitioner in the post of Assistant Teacher (Probationary) with effect from 1st June 2023 within a period of four weeks and accordingly direct the Respondents to release the salary/honorarium payable to the Petitioner with all its arrears within a further period of four weeks or any other period which this Hon'ble Court may deem fit and proper.

(d) Pending the hearing and final disposal of this petition, this Hon'ble Court be pleased to grant an injunction restraining the Respondents from absorbing any other surplus Assistant Teacher/Shikshan Sevak in the post occupied by the Petitioner at Petitioner No.3 Junior College.”

8. Mr. Kapadnis, learned counsel for the Petitioner No.1, has drawn our attention to the GR dated 10th June 2005. The subject of the said GR reads thus:

“राज्यातील खाजगी अनुदानित माध्यमिक, उच्च माध्यमिक शाळा/कनिष्ठ महाविद्यालये, अद्यापक विद्यालये व सैनिकी शाळा या मध्ये सुधारित शिक्षणसेवक योजना सुरु करण्याबाबत”

(Official Translation)

“Regarding implementation of the revised 'Shikshan Sevak' Scheme in private aided secondary schools, higher secondary schools/junior colleges, teacher training colleges and military schools in the State.”

9. On such context, Clause 8 of the said GR is the subject matter of contention urged on behalf of the parties. The same 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.”

(Official Translation)

“8. If a non-teaching staff member acquires the necessary qualifications for the post of a secondary or junior college teacher and if a vacancy exists in that cadre within the secondary or higher secondary school/junior college, then, in such cases, the said non-teaching staff member shall have to be appointed to the post of 'Shikshan Sevak' only and the remuneration applicable to a 'Shikshan Sevak' and all other associated terms and conditions shall be applicable to him/her. However, the earlier service rendered by such non-teaching staff member shall be considered eligible for pension purposes.”

10. Applying the policy of the State Government contained in the said GR, a decision was required to be taken by the Deputy Director of Education on the proposal forwarded by the Institution seeking approval of Petitioner No.1's appointment. However, merely on the fact that Petitioner No.1 was earlier holding a non-teaching post of Junior Clerk and that, by the appointment order in question, she was appointed as a Shikshan Sevak, the same was considered as a promotion and the proposal was rejected. The reasons as set out in the impugned order to that effect are required to be noted, which read thus:

“// निष्कर्ष //

१. शासन निर्णय दि.१० जून २००५ मधील मुद्दा क्र.८ नुसार शिक्षकेतर कर्मचाऱ्याने माध्यमिक शिक्षकांसाठी वा महाविद्यालयीन शिक्षकांसाठी आवश्यक ती शैक्षणिक अर्हता प्राप्त केली आणि जर त्या संवर्गाचे पद माध्यमिक शाळेत वा कनिष्ठ महाविद्यालयात उपलब्ध असेल तर, अशा प्रकरणी सदरहू शिक्षकेतर कर्मचाऱ्यास शिक्षण सेवक म्हणूनच “नियुक्ती” द्यावी लागेल व त्यांना शिक्षण सेवकांचेच मानधन आणि इतर सर्व अटी व शर्ती लागू होतील अशी तरतूद आहे. सदरचा नियम हा नियुक्तीकरिता असून श्रीमती मिनाक्षी पारधी यांची पदोन्नती केली असल्याने सदर नियम त्यांना लागू होत नाही.

२. तसेच शासन अधिसूचना दिनांक १५.०२.२००७ मधील जोडपत्र — अ मधील मुद्दा क्र.०१ मध्ये शिक्षकेतर कर्मचाऱ्यांनी शिक्षकांसाठी विहित केलेली शैक्षणिक अर्हता प्राप्त केल्यास त्याची शिक्षक पदावर “नियुक्ती” करताना संवर्ग बदल होत असल्यामुळे त्याची “नियुक्ती” प्रथम शिक्षक सेवक म्हणूनच करण्यात येईल असे नमूद आहे. सदरचा नियम हा नियुक्तीकरिता असून श्रीमती मिनाक्षी पारधी यांची पदोन्नती केली असल्याने सदर नियम त्यांना लागू होत नाही.

३. ...

४. ...

५. ...

७. ...

// निर्णय //

उपरोक्त निष्कर्षान्वये शिक्षकेतर प्रवर्गामधून शिक्षण सेवक पदी पदोन्नती करणेबाबत प्रचलित नियम व महाराष्ट्र खाजगी शाळांतील कर्मचारी (सेवेच्या शर्ती) नियमावली. १९८१ मध्ये तरतूद नाही. तसेच बिगर अल्पसंख्यांक संस्थेच्या शाळांमधील शिक्षण सेवक पदावरील नियुक्ती ही शासन निर्णय दिनांक २३ जून २०१७ नुसार पवित्र प्रणालीमार्फत करण्यात येत असल्याने श्रीमती मिनाक्षी पारधी यांची शिक्षकेतर संवर्गातून शिक्षण सेवक पदी केलेल्या पदोन्नतीचा प्रस्ताव अमान्य करण्यात येत आहे.”

(Official Translation)

“// Conclusion //

1. As per Point No. 8 of the Government Resolution dated 10th June 2005, if a non-teaching staff member acquires the required educational qualification for the post of a teacher in Secondary school or college and if the post of the said cadre is available in the secondary school or junior college, then in such cases, the said non-teaching staff member shall have to be appointed as a ‘Shikshan Sevak’ only and the honorarium as well as all other terms and conditions applicable to the ‘Shikshan Sevak’ will be applicable to him/her accordingly. **This Rule applies to appointment however, Smt. Meenakshi Paradhi has been promoted and therefore, this Rule is not applicable in her case.**

2. Similarly, in Point No. 01 in Annexure-A to the Government Notification dated 15.02.2007, it is mentioned that if a non-teaching staff member acquires the prescribed educational qualification for a teacher’s post, upon his/her appointment to the teacher’s post, their cadre changes and therefore, their “appointment” shall initially be made as a "Shikshan Sevak" only. However, this Rule applies to appointments whereas Smt. Meenakshi Paradhi has been promoted and hence, this Rule is not applicable in her case.

3. ...
4. ...
5. ...
6. ...
7. ...

// Decision //

Based on the conclusions mentioned above, there is no provision regarding the promotion to the post of 'Shikshan Sevak' from among non-teaching cadres in prevailing Rules and also in the Maharashtra Private Schools Employees (Conditions of Service) Regulation Rules, 1981. Moreover, as per the Government Resolution dated 23rd June, 2017, the appointment to the post of 'Shikshan Sevak' in the Schools run by Non-Minority Institutions is being made through the 'Pavitra' Portal and therefore, the proposal submitted for the promotion of Smt. Meenakshi Pardhi from the non-teaching cadre to the post of 'Shikshan Sevak' is hereby rejected."

(emphasis supplied)

11. It is the submission on behalf of Petitioner No.1 that the approach of the Deputy Director of Education in passing the impugned order is erroneous and, in fact, contrary to the GR referred to above, under which an appropriate decision was required to be taken. Merely because the appointment order uses the word "उन्नयन", the appointment ought not to have been considered as a promotion. Supporting this contention, Mr. Kapadnis has drawn our attention to the decision of this Court in the case of **Vijay Vilas Sase vs. State of Maharashtra & Ors.**¹, whereby a Co-ordinate Bench of this Court, by the order dated 13th March 2026, allowed the petition and made the following observations:

"5. In the light of submissions of both the parties and on perusal of the facts of present case, it is admitted position that the Petitioner was initially appointed on 1st February 1995 against the post of Peon. Then, on 13th September 2010, he was promoted against the post of junior clerk and lastly he was promoted against the post of senior clerk on 9th October 2020. **It is also not disputed that the Petitioner has improved his educational qualification by obtaining due permission of management and is presently holding the qualification of B.Com, B.Ed.**

1 Writ Petition No.7966 of 2025

6. In academic session 2024-25, one vacancy of Assistant Teacher was created in the school. The Respondent No. 4-management in terms of Government Resolution dated 10th June 2005 resolved to promote the Petitioner from non-teaching category to teaching category. Accordingly, appointment order dated 20th December 2024 was issued to the Petitioner.

7. After appointment of Petitioner, the proposal seeking approval was forwarded to the Education Officer. It is pertinent to note that the Education Officer while granting approval only stated that Petitioner would be entitled for salary on the basis of scheme of Shikshan Sevak, i.e., honorarium. Except this, there is no other reason given in the communication of Education Officer.

8. In the light of this, the only issue which arises for consideration before this Court is whether the Petitioner, who was appointed as a Shikshan Sevak as per the scheme of State Government will be entitled for the salary as on honorarium basis or as a regular pay-scale basis.

9. It is not disputed in the present matter that this Court in the case of **Usha Baliram Masal v. Hind Seva Mandal** [WP No. 3167 of 2019 decided on 30 September 2019] held that Clause (8) of the Government Resolution dated 10th June 2005 is in the nature of providing promotional avenue to an employee of non teaching staff and cannot be considered as fresh appointment rather it is to be treated as a case of promotion.

10. This Court in the case of **Suhas Rangraoji More v. State of Maharashtra** (supra) by accepting the view taken by this Court earlier, in paragraph 21 has observed as under:

"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 approval."

11. The same view is followed by this Court in the case of **Dilip Ramchandra Karande v. State of Maharashtra** (supra) and **Shivaji Sukdev Lawate v. State of Maharashtra** (supra)."

(emphasis supplied)

12. Relying on the aforesaid observations, although Mr. Kapadnis would submit that the upgradation of Petitioner No.1 from the post of Junior Clerk to a teaching post is strictly not a promotion, it is, in some manner, an upgradation hence, the inadvertent use of the word “उन्नयन” in the appointment order ought not to have weighed on the Deputy Director of Education to reject the proposal. According to him, this contention would find support from the decision of this Court in the case of **Usha Baliram Masal** (supra), which is referred in paragraph 9 of the decision in **Vijay Vilas Sase** (supra), wherein the Division Bench observed that Clause 8 provides one of the promotional avenues to non-teaching staff to get a higher post by being appointed as a Shikshan Sevak (Assistant Teacher).

13. On the other hand, Mr. Deolekar, learned AGP, opposes this petition, relying on the reply affidavit filed on behalf of Shri Rajesh Kankal, Deputy Director of Education, Mumbai, in which, while supporting the impugned decision, the following contentions have been raised:

“5. ...

(i) As per clause 8 of Government Resolution dated 10/06/2005 if non-teaching employee has obtained the necessary educational qualification for secondary school teachers or colleges teachers and if that category post is available in secondary school or Jr. College, then in such a cases the said non-teaching employee will have to be appointed as a Shikshan Sevak and the honorarium and all other terms and conditions of the Education Department will be applicable them, the said rule is not applicable to the Petitioner as she has been promoted. Hereto annexed and marked as **Exhibit 'A'** is a copy of the G.R. dated 10.06.2005.

(ii) As per point no.1 of Annexure-A of Government Circular dated 15/02/2007 if non teaching employee obtains the educational qualification prescribed for teachers, he will be appointed as a ShikshanSevak since there is a change in cadre while appointing him to the post of teacher. The said

rule is for appointment and the Petitioner has been promoted, the said rule is not applicable to her. Hereto annexed and marked as **Exhibit 'B'** is a copy of the Government Circular dated 15.02.2007.

(iii) The provision regarding appointment of non- teaching staff to the post of teaching post has been mentioned in the order dated 12/03/2001 passed by the Director of Secondary and High Secondary Education, Maharashtra State, Pune. The provision regarding promotion from non-teaching cadre to teaching cadre is not mentioned in this order.

(iv) The qualification for teaching staff is prescribed in clause (iii) of Schedule B of MEPS Rules, 1981 and qualification of non teaching staff is prescribed in clause 8 of Schedule B of MEPS Rules, 1981. There is provision for promotion of jr. clerk to senior clerk on the basis of seniority and merit. There is no provision in the MEPS Rules, 1981 for promotion of Jr. Clerk to any post other than senior clerk.

(v) The Petitioner has been promoted to the teaching cadre from the non teaching cadre in the Petitioner no. 3 school. The Petitioner no. 3 school is non- minority school. However, as per GR dated 23/06/2017 the non-minority school should fill vacant post through PAVITRA portal. As per GR dated 23/06/2017 the PAVITRA portal has implemented in the state therefore, appointment in non- minority school cannot be approved by the Deputy Director of Education. Hereto annexed and marked as **Exhibit 'C'** is a copy of the G.R. dated 23.06.2017.

(vi) It is mentioned in clause 13 of GR dated 7/02/2019 that, the PAVITRA portal is not applicable to the self finance school, minority Educational institution, permanent non grant in aid English medium school. However, it is not mentioned in GR dated 7/02/2019 that promotion from non teaching staff to teaching staff.

(vii) It is mentioned in clause A of GR dated 23/0/2017 if the recruitment of teaching staff in schools is not done through an aptitude test or is not done in the future, grant will not be issued to such school under any circumstances. The management has promoted the Petitioner from Jr. clerk to Teaching post. There is no Government Resolution regarding promotion from non – teaching cadre to teaching cadre.”

14. Although there are other contentions raised in the reply affidavit, however, the same are not found in the impugned order and hence, they would not warrant any consideration, considering the nature of the impugned order.

15. On the aforesaid conspectus, we have heard learned counsel for the parties and perused the record. We find ourselves in agreement with the submissions as urged on behalf of Mr. Kapadnis that the approach of the Deputy Director of Education in the present case was not correct. From the policy of the State Government, as contained in the GR dated 10th June 2005 (supra), it is seen that it recognizes the management taking steps to grant to a non-teaching employee, a teaching post, as in the present case. In fact, the GR recognizes a career advancement pattern, inasmuch considering such appointments as an incentive for a member of the non-teaching staff, to upgrade himself/herself by achieving such qualifications, for appointment to such higher post.

16. In the present case, although Petitioner No.1 was appointed on a non-teaching post as a Junior Clerk, she has taken efforts to acquire higher education. She obtained the qualifications of M.Com. as also B.Ed. Accordingly, she became eligible to be appointed as an Assistant Teacher. It would be a laudable approach of the State Government as also of the management to promote such progress of its employees to achieve higher qualifications, which is good not only for the institution but qua the self development of an employee and indirectly contribute to a societal advancement in the standards of education and welfare of the citizens. A well educated population contributes to the overall prosperity, socio-economic growth of the nation.

17. It is not in dispute that, at the relevant time, on account of the termination of the services of Shri B. N. Shirke, a vacancy was available. Once this was the

position, there was nothing wrong, more particularly in the context of the GR dated 10th June 2005, with the management passing a resolution to appoint Petitioner No.1 as Shikshan Sevak, which is precisely what is contemplated in Clause 8 of the said GR.

18. In our opinion, merely because the word “उन्नयन” was used in the appointment order issued to Petitioner No.1, the same cannot be taken to be as something falling outside the purview of Clause 8 of the GR dated 10th June 2005, more particularly when such appointment of an employee is practically an upgradation of some nature, as observed by the Division Bench in its decision in the case of **Usha Baliram Masal** (supra). Mr. Kapadnis would, therefore, be correct in placing reliance on the said decision as also the decision in **Vijay Vilas Sase** (supra) to contend that, considering the position in law as reflected in the said decisions, the impugned order passed by the Deputy Director of Education would be required to be quashed and set aside and a direction would be required to be issued to grant approval. We find that the reply affidavit also does not make out any ground so as to hold that Petitioner No.1 would not be entitled to the reliefs as prayed for.

19. In this view of the matter, we are of the clear opinion that Petitioner No.1 satisfied the conditions as stipulated in Clause 8 of the GR dated 10th June 2005. As there was a vacant post, Petitioner No.1 being qualified and she was duly appointed on the post of Assistant Teacher, the proposal for approval of her

appointment on the post of Assistant Teacher as forwarded by Petitioner No.2 ought to have been accepted.

20. We are accordingly inclined to allow this petition in terms of the following orders:

- i) The impugned order dated 7th March 2026 passed by the Deputy Director of Education is quashed and set aside.
- ii) We hold that the proposal dated 12th April 2024, as forwarded by Petitioner No.2 to the Deputy Director of Education, was valid and shall be accepted and approved by the Deputy Director of Education, thereby approving the appointment of Petitioner No.1 on the post of Assistant Teacher.
- iii) Let the approval be issued in favour of Petitioner No.2 within a period of four weeks from today.
- iv) Needless to observe that Petitioner No.1 would be entitled to the regular pay scale applicable to an Assistant Teacher in pursuance of the appointment order dated 20th May 2023.

21. Writ Petition is allowed in the aforesaid terms. No costs.

(DR. NEELA GOKHALE, J.)

(G. S. KULKARNI, J.)