



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4320 OF 2026

Vijay Dnyandev Kunde ... Petitioner
Vs.
The State of Maharashtra, through Secretary & Ors. ... Respondents

WITH
WRIT PETITION NO. 1408 OF 2025

Sudhir Vishwasrao Patil & Ors. ... Petitioners
Vs.
The State of Maharashtra, through Secretary,
Education and Sports Dept. & Ors. ... Respondents

WITH
WRIT PETITION NO. 2999 OF 2025

Yogesh Yeshwant Dhamanase ... Petitioner
Vs.
The State of Maharashtra, through Secretary,
Education and Sports Dept. & Ors. ... Respondents

WITH
WRIT PETITION NO. 4925 OF 2026

Arpita Abhijit Deswandikar ... Petitioner
Vs.
The State of Maharashtra, through Secretary,
Education and Sports Dept. & Ors. ... Respondents

WITH
WRIT PETITION NO. 9045 OF 2026

Vijay Uddhav Gaikwad ... Petitioner
Vs.
The State of Maharashtra, through Secretary,
Education and Sports Dept. & Ors. ... Respondents

WITH
WRIT PETITION NO. 9037 OF 2026

Archana Sunil Geet ... Petitioner
Vs.
The State of Maharashtra, through Secretary,
Education and Sports Dept. & Ors. ... Respondents

**WITH
WRIT PETITION NO. 9042 OF 2026**

Swati Prabhakar Ahire	... Petitioner
Vs.	
The State of Maharashtra, through Secretary, Education and Sports Dept. & Ors.	... Respondents

**WITH
WRIT PETITION NO. 9039 OF 2026**

Surekha Shivaji Shirsat	... Petitioner
Vs.	
The State of Maharashtra, through Secretary, Education and Sports Dept. & Ors.	... Respondents

**WITH
WRIT PETITION NO. 9041 OF 2026**

Rajendra Bhaskarrao Sonawane	... Petitioner
Vs.	
The State of Maharashtra, through Secretary, Education and Sports Dept. & Ors.	... Respondents

**WITH
WRIT PETITION NO. 9047 OF 2026**

Manisha Ramesh Mahale	... Petitioner
Vs.	
The State of Maharashtra, through Secretary, Education and Sports Dept. & Ors.	... Respondents

**WITH
WRIT PETITION NO. 9044 OF 2026**

Kishor Vitthal Kshatriya	... Petitioner
Vs.	
The State of Maharashtra, through Secretary, Education and Sports Dept. & Ors.	... Respondents

Mr. Avinash Fatangare a/w. Archana Shelar and Vishakka Pandit i/b. Fatangare & Associates for the petitioners.

Mr. M.M. Pabale, AGP a/w. Mrs. Nisha M. Mehra, AGP, Ms. P.N. Diwan, AGP, Mrs. D.S. Deshmukh, AGP and Mrs. P.M.J. Deshpande, AGP for the State.

Mr. Rohit Parab i/b. C.G. Gavnekar for respondent no. 4 in WP/9041/2025 and

WP/9044/2026.

Mr. Kavyal Prafulla Shah for respondent no. 4 in WP/9045/2026.

**CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.**
DATE: 1 SEPTEMBER, 2026.

P.C.

1. All these petitions raise common issues of law and facts. The prayers as made in the lead petition (Writ Petition No. 4320 of 2026) are required to be noted, which reads thus:

“a) This Hon’ble Court be pleased to issue Writ of Mandamus or Writ in the nature of Mandamus or any other appropriate Writ, Order and Direction, calling for the record and proceedings pertaining to the issuance of G.R. dated 28.01.2019, 07.03.2019 and 15.03.2024 issued by respondent no. 1 with regard to the criterion laid down qua the posts of Laboratory Assistants as also consequential circulars/orders dated 01.03.2021, 26.03.2021 and 15.12.2025 issued by respondent no. 2 and after going through legality, validity and propriety thereof be pleased to quash and set aside the same relating to Laboratory Assistants to that extent;

b) This Hon’ble Court be pleased to issue Writ of Mandamus or Writ in the nature of Mandamus or any other appropriate Writ, Order and Direction, directing the respondents to fix the number of posts of Laboratory Assistants in Secondary, Higher Secondary Schools and Junior Colleges with Science faculty.”

2. Thus, the petitioners are primarily aggrieved by the staffing pattern as set out by the Government Resolution in question. We have also considered the Government Resolution dated 28 January, 2019. We have perused the order dated 6 February, 2024 passed by the co-ordinate Bench of this Court in **Maharashtra Rajya Shaikshanik Prayogshala Karmachari Mahasangh & Anr. vs. State of Maharashtra & Ors.**¹, in which the Court has recorded the position taken by the State Government and more particularly as set out in paragraphs 7 to 9.

1 Writ Petition No. 5058 of 2021

The said paragraphs are required to be noted, which reads thus:

“7. The learned Advocate General points out that this interpretation is not correct as the reading of the Government Resolution would show that the members of the Petitioner Associations, for that matter other similarly situated employees, would not be terminated from the services pursuant to the impugned Government Resolution. The learned Advocate General points out that even if the posts are declared surplus, since the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act and Rules thereunder are applicable, being approved on the posts, absorption will have to be done as per the governing Rules 26 and 27 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 and till that time such employees are absorbed, their salary will be borne as per the Rules.

8. Since, the Government Resolution is interpreted as such by the learned Advocate General, whose interpretation we accept, the apprehension of the members of Petitioners/Associations regarding termination from services and being rendered jobless no longer survives. The members of the Petitioners/Associations, approved employees would have the protection of Rules 26 and 27 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. The learned Advocate General states that in light of what is observed above, necessary instructions would be issued by the State Government.

9. That being the position, it is not necessary for us to continue to entertain the challenge at the behest of these petitioners. Leaving the larger question open, if and when it is brought before the Court by the affected parties, we dispose of the Writ Petitions. All interim applications are also disposed of.”

3. In our opinion, considering the fact that although the petitioners are now working, however, on the record of the State Government, they are surplus, it will be appropriate for the petitioner to raise all such contentions before the Secretary of the Education Department/respondent no. 1 including to raise their contentions on the applicability of the provisions of Article 21A of the Constitution recognized under the provisions of Right of Children to Free and Compulsory Education Act, 2009. In the event, such representation is made within two weeks from today, let the same be considered by the Secretary of Education Department/respondent no. 1 by granting an opportunity of personal hearing and appropriate decision on the grievance of the petitioner be passed in

accordance with law. We keep open all contentions of the petitioner in that regard.

4. We are inclined to pass the such order, as it is the settled principle of law, as laid down by the Supreme Court, that a basic requirement for the Court to issue a writ of mandamus is first a demand for justice. In the absence of such a demand, the petition cannot ordinarily be entertained.

5. Needless to observe that in the event, the petitioners' contention are not accepted, the petitioners would be at liberty to take appropriate legal remedy as may be available to them.

6. In the aforesaid circumstances, the petitions would not warrant any further consideration. They are disposed of.

7. Till the Secretary, Education Department decides the petitioners' representation, protection granted in Writ Petition No. 1408 of 2025 (Sudhir Vishwasrao Patil & Ors. vs. The State of Maharashtra & Ors.) and Writ Petition No.2999 of 2025 (Yogesh Yeshwant Dhamanase vs. The State of Maharashtra & Ors.) shall continue to operate.

(DR. NEELA GOKHALE, J.)

(G. S. KULKARNI, J.)