

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3708 OF 2011

Pramodini Keshav Sapkal and Others ..Petitioners

Vs.

The State of Maharashtra and Others ..Respondents

WITH

WRIT PETITION NO.4267 OF 2011

Sangita V. Chakane and Others ..Petitioners

Vs.

The State of Maharashtra and Others ..Respondents

Mr. S. S. Pakale i/b Mr. Kirankumar J. Phadake,for the
Petitioners in both petitions.

Ms. Sushma Bhende, AGP, for Respondent Nos.1 to 9, 11, 13,
14, 16, 17, 19 to 21, 21B, 21C, 23, 25, 26, 28, 29, 31 to 33,
33B and 33C in WP.3708/11 and for Respondent Nos.1 to 3 in
WP.4267/11.

**CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.**

DATE :- FEBRUARY 22, 2017.

P. C.:

The Petitioners have filed these Writ Petitions under Article 226 of the Constitution of India claiming a declaration that they are governed by the Maharashtra Civil Service (Pension) Rules, 1982 and such other existing pension schemes as are applicable to the Government Servants and no attempts should be made so as to apply a new pension scheme titled as Defined Contribution Pension Scheme to them.

2 The Petitioners have set out the details and have contended before us that each one of them is appointed before a cut-off date. That cut-off date is taken to be 1st November, 2005. The Petitioners satisfy the conditions set out in the recent Government Resolution issued by the Department of Finance, Government of Maharashtra dated 19th July, 2011. This Government Resolution makes available the pensionary benefits to the Teachers, Gram Sevak etc who have been appointed on contract basis but prior to 1st November, 2005.

They may be appointed in the aided primary / secondary / higher secondary / junior college or in Zilla Parishads but they would obtain benefits of this Government Resolution only if the terms and conditions are satisfied.

3 Mr. Pakale, learned counsel appearing for the Petitioners relies upon an order passed by a Division Bench of this Court on 11th October, 2013 in **Civil Writ Petition No.5495 of 2010 (Maharashtra Rajya Prathmik Shikshan Samitee and Others V/s State of Maharashtra and Others)**. He would submit that the issue in this Petition stands concluded by this Judgment and the Government Resolution dated 19th July, 2011.

4 On such a submission of Mr. Pakale, we called upon Ms. Bhende appearing for the State to verify as to whether this indeed is the factual position and would the Government Resolution relied upon by Mr. Pakale be applied to these Petitioners.

5 Ms Bhende invites our attention to the Government Resolution and submits that not only that the appointments should be before the cut-off date, but they should be in a 100% aided school. Lastly, the Petitioners would have to satisfy the criteria in the sense their pension papers and records should be forwarded by the competent authority on a scrutiny of the factual position about their appointments and the Government aid being made admissible.

6 Mr. Pakale has relied upon Annexure-A to the Petition to submit that all the Petitioners before this Court were appointed prior to the cut-off date. They would therefore be governed by the Government Resolution dated 19th July, 2011.

7 We have perused, with the assistance of both advocates, the petitions and the order passed by the Division Bench. We have also perused the Government Resolution dated 19th July, 2011.

8 Since a very small factual issue has to be investigated, we direct that the competent authority, namely, if it is the Zilla Parishad, then, the Chief Executive Officer and any other statutory authority such of the officers competent to verify and scrutinize the records, shall on a scrutiny of the entire record relating to the Petitioners, particularly, in the light of this Government Resolution, forward their proposals for pension to the specified or designated authority in the Government. That authority in the Government, thereafter shall make admissible the pensionary benefits in terms of this Government Resolution within a period of two months from the date of receipt of the proposals through the aforementioned competent authority of the institutions. Needless to clarify that the requirements in the Government Resolution particularly with regard to the appointments before the cut-off date and the funding namely, institutions receiving any Government aid or not should be verified and meticulously by the authority. We dispose off these Writ Petitions in the light of the order passed by this Court as

noted above and the Government Resolution dated 19th July, 2011. There will be no order as to costs. Both the Petitions are disposed off.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)