

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1534 OF 2019

Smt. Snehlata Shrirang Ukirde

....Petitioner

vs.

The State of Maharashtra & Ors.

...Respondents

**WITH
WRIT PETITION NO. 519 OF 2021**

Ms Swati Bharatrao Pawar

....Petitioner

vs.

The State of Maharashtra & Ors.

...Respondents

.....

Mr. Narendra Bandiwadekar a/w Mr. Vinayak Kumbhar i/b Ms Ashwini
Navjyot Bandiwadekar for the Petitioners.

Mr. N. K. Rajpurohit, AGP for Respondent Nos.1 and 2 in WP/1534/2019.

Mr. A. B. Kadam, AGP for Respondent Nos. 1 and 2 in WP/519/2021.

CORAM : S. C. GUPTA AND SURENDRA P. TAVADE, JJ.

DATE ON WHICH JUDGMENT IS RESERVED: 2 FEBRUARY 2021

DATE ON WHICH JUDGMENT IS PRONOUNCED: 12 MARCH 2021

JUDGMENT (PER SURENDRA P. TAVADE, J.) :

. Rule. Rule made returnable forthwith, by consent of both counsel, the
Writ Petitions are taken up for final hearing.

2. The Petitioners seek direction to Respondent No. 2 to accept the
proposals of the Petitioners from Respondents-Institutions and grant
approval to their appointments in the post of Full Time Teacher in
Respondent No. 3 Institute, by way of up-gradation from the post of Part
Time Teachers.

3. The Petitioners are qualified and eligible for the appointment as a Full Time Teachers. After following due procedure of law prescribed under the Maharashtra Employees of Private Schools Act, 1977, Respondent No. 3 has appointed the Petitioners in its school as Shikshan Sevak, in the year 2008 / 2009. Respondent No. 2 granted approval to the appointment of the Petitioners as part time Shikshan Sevak. There was increase in the workload, and Full Time Posts became available. The Petitioners were entitled to be appointed as Full Time Teachers. It is contended that the posts of Full Time Teachers fell vacant on account of retirements/voluntary retirements of existing teachers, therefore, the Petitioners requested Respondent No. 3 to appoint them in the vacant posts of Full Time Teachers by way of up-gradation, but Respondent No. 3 did not submit the proposals of the Petitioners for up-gradation as Full Time Teachers. It is contended that the Petitioners are eligible to be considered for up-gradation as Full Time Teachers as per GRs of 2001 and 2005.

4. Heard learned Counsel on behalf of the Petitioners and Learned AGP on behalf of the Respondents. It is not in dispute that the Petitioners came to be appointed as Shikshan Sevaks in the year 2009 / 2008. The said appointments were approved by Respondent No. 2. After completion of three years service as Part Time Shikshan Sevak, the Petitioners became eligible to be absorbed in regular cadre as Full Time Teacher. It is also an admitted fact that the posts of Full Time Teachers are available in the establishment of Respondent No. 3, due to retirements of existing teachers. The Petitioners requested Respondent No. 3 to send their proposals to Respondent No. 2 for approval, but Respondent No. 3 did not send proposals of the Petitioners for the approval of the appointments as Full Time Teachers.

5. Admittedly, Education Department has issued two GRs dated 31 January 2001 and 10 June 2005, wherein, there is a provision of up-

gradation of Shikshan Sevak as Full Time Teachers on proper application submitted in that behalf to the Education Authorities. The Educational Institute is bound to submit the proposals of the Petitioners for their approval as Full Time Teachers.

6. In a number of similarly placed cases, a Division Bench of this Court, by its order dated 10 July 2019, whilst disposing of the Petitions of concerned teachers, granted liberty to the Petitioners to make representations and directed the Education authorities to issue appropriate instructions/directions for facilitating their absorption in accordance with the State policy in a time bound manner. This Court in the case of ***Ms Yashoda Jaysing Karande V/s. The State of Maharashtra & Ors. {WP(Stamp) No. 96359 of 2020}*** has held that the Petitioners therein were entitled for the benefit of the above mentioned two GRs for their appointments as Full Time Teachers. In the present case also, the appointment of the Petitioners as Shikshan Sevak is approved by Respondent No. 2. There are clear vacancies in the cadre of Full Time Teachers; as per the seniority, the Petitioners are entitled to be appointed as Full Time Teachers. In view of the GRs of 2001 and 2005, coupled with the decisions of a Division Bench of this Court, these petitions can be disposed of by giving liberty to the Petitioners to file appropriate applications/representations for their absorption as Full Time Teachers in accordance with the State policy. The Deputy Director of Education, shall on receipt of such applications/representations extend opportunity of hearing to the Petitioners and the concerned Institutions thereafter issue necessary instructions/directions for facilitating absorption of the Petitioners in accordance with the policy of the Respondent-State, as expeditiously as possible, and preferably within a period of six weeks from the date of receipt of the applications/representations. In the event the Petitioners are found eligible for absorption as Full Time Assistant Teachers in the concerned private institutions, the Deputy Director of Education, shall issue directions to the

employer Institution for submitting appropriate proposals for grant of approval to upgradation of the Petitioners as Full Time Teachers, Accordingly, in view of the aforesaid directions, the petitions are disposed of.

(SURENDRA P. TAVADE, J)

(S.C. GUPTE, J.)