

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 14935 OF 2017

1. Ganesh Narhar Chavan,
Age 43 years, Occu. Librarian
Nutan Madhyamik Vidyalaya,
Dondaicha, Taluka Sindhkheda
District Dhule
Resident of Hudco Colony 15-B
Near Mahadeo Mandir, Hemantnagar
Dondaicha Taluka Sindkheda District Dhule
2. Ramesh Nana Sendane,
Age 49 years, Occu. Librarian
Chatrapati Shivaji High School Mukti,
and Junior College, Taluka District Dhule.
Resident of At post Plot No. 60
Santoshnagar, Walwadi
Wadi Bhokar Road, Deopur, Dhule
3. Sunil Abhiman Patil
Age 52 years, Occu. Librarian
S. M. P. R. Patil Vidyalaya & Jr. College
Borvahir, Taluka and District Dhule.
Resident of At Pot Borvahir
Taluka District Dhule
4. Sanjay Dinkar Patil,
Age 49 years, Occu. Librarian
Pandit Nehru Sahakari Sheti Vidyalaya
& Junior College, Newalnagar,
Taluka District Dhule.
Resident of At Post Kondawal
Taluka Amalner, District Jalgaon.
5. Parveen Pitambar Mali
Age 44 years, Occu. Librarian
Gandhi & Phule Vidyalaya, Khede
Taluka District Dhule.
Resident of At post Khede,
Taluka District Dhule.

6. Mangala Harichand Patil,
Age 54 years, Occu. Librarian,
Vikas Vidyalaya, Arts & Science Jr. College,
Nardana, District Dhule.
7. Sharda Chatarsingh @ Sharda Shivaji Patil,
Age 54 years, Occu. Librarian,
R. C. Patil Marathi Medium School
Shripur, District Dhule.
Resident of Karvantaka, 33-B Plot,
Udaisingnagar, Behind Sakshi Hospital,
Shirpur District Dhule.

...Petitioners.

Versus

1. The State of Maharashtra,
through Secretary Education Department,
Mantralaya Mumbai- 400 032
2. The Director of Education,
Maharashtra State Pune.
3. The Deputy Director of Education,
Nasik Division, Nasik.
4. The Education Officer (Secondary),
Zilla Parishad Dhule.
5. The Principal,
Nutan Madhyamik Vidyalaya,
Dondaicha, Taluka Sindhkheda,
District Dhule.
6. The Principal,
Chatrapati Shivaji High School Mukti,
and Junior College, Taluka District Dhule.
7. The Principal,
S. M. P. R. Patil Vidyalaya & Jr. College
Borvahir, Taluka and District Dhule.

8. The Principal,
Pandit Nehru Sahakari Sheti Vidyalaya
& Junior College, Newalnagar,
Taluka District Dhule.
9. The Principal,
Gandhi & Phule Vidyalaya, Khede
Taluka District Dhule.
10. The Principal,
Vikas Vidyalaya, Arts & Science Jr. College,
Nardana, District Dhule.
11. The Principal,
R. C. Patil Marathi Medium School
Shripur, District Dhule.

....Respondents.

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Mrs. A. N. Ansari, Advocate for petitioners.

Mr. Y. G. Gujarathi, AGP for respondent Nos. 1 to. 4.

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WITH
WRIT PETITION NO. 8981 OF 2018

Shaikh Ashfaq s/o. Shaikh Jafar,
Age 56 years, Occu. Librarian,
Milliya Girls High School, Beed.
District Beed.
Resident of Qula Maidan, Beed-431 122

...Petitioner.

Versus

1. The State of Maharashtra,
through Secretary
School Education and Sport Department,
Mantralaya Mumbai- 400 032
2. The Director of Education,
Maharashtra State Pune.
3. The Deputy Director of Education,

Aurangabad Division Aurangabad.

4. The Education Officer (Secondary),
Zilla Parishad, Beed.
5. The Head Mistress,
Milliya Girls High School,
Beed-431 122.

....Respondents.

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Mrs. A. N. Ansari, Advocate for petitioners.

Mr. Y. G. Gujarathi, AGP for respondent Nos. 1 to. 4.

Mrs. Aparna Sapate holding for Mr. Shrikishan S. Shinde, Advocate for
respondent No. 5.

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WITH
WRIT PETITION NO. 14719 OF 2017

Pramodsing Chainsing Rajput,
Age 40 Years, Occu. Service/Librarian
A. M. Bagul High School & Jr. College,
Malpur, Taluka Sindhkheda, District Dhule.
Resident of Rawal Gadi, Dondaicha
Taluka Sindhkheda, District Dhule.

...Petitioner.

Versus

1. The State of Maharashtra,
through Secretary/Education Department,
Mantralaya Mumbai- 400 032
2. The Director of Education,
Maharashtra State Pune.
3. The Deputy Director of Education,
Nasik Division, Nasik.
4. The Education Officer (Secondary),
Zilla Parishad Dhule.

5. The Principal,
A. M. Bagul, High School and Junior
College, Malpur, Taluka Sindkheda,
District Dhule.

....Respondents.

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Mrs. A. N. Ansari, Advocate for petitioners.

Mr. Y. G. Gujarathi, AGP for respondent Nos. 1 to. 4.

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WITH
WRIT PETITION NO. 6084 OF 2016

1. Manohar Ananda Lambe,
Age 48 years, Occu. Librarians
Resident of S. B. High School Jalna.
2. Pawar Vasant Purba,
Age 45 years, Occu. Librarian,
Resident of S. B. High School Jalna,
3. Joshi Girish Laxman,
Age 40 years, Occu. Librarian,
Resident of M. S. Jain High School,
Jalna.
4. Sow. Gawad Anita Keshavrao,
Age 40 years, Occu. Librarian,
Resident of Dr. Frezer Boys High School,
Jalna.
5. Kadam Sundar Janardhan,
Age 49 years, Occu. Librarian,
Resident of Shri Yoganand
Madhyamik Vidyalaya, Partur,
District Jalna.
6. Wadle Rajkumar Kashinath,
Age 42 years, Occu. Librarian,
Resident of S. B. High School,
Bharadi, Taluka District Aurangabad.

7. Ghogre Sunil Baliram,
Age 45 years, Occu. Librarian,
Resident of Shri Chatrapati
Vidyalaya, Ankush Nagar,
Wadigodri, Taluka Ambad,
District Jalna.
8. Shaikh Iqbal Shaikh Isa,
Age 46 years, Occu. Librarian,
Resident of B. Z. High School,
Khadka Road, Bhusawal,
Taluka Bhusawal, District Jalgaon.

...Petitioners.

Versus

1. The State of Maharashtra,
through Secretary
School Education and Sport Department,
Mantralaya Mumbai- 400 032
2. The Director of Education,
Maharashtra State Pune.
3. The Deputy Director of Education,
Aurangabad Division, Aurangabad.
4. The Deputy Director of Education,
Nasik Division, Nasik.
5. The Education Officer (Secondary),
Zilla Parishad, Jalna.
6. The Education Officer (Secondary),
Zilla Parishad, Jalgaon.
7. The Head Master,
S. B. High School Jalna.
8. The Head Master,
M. S. Jain High School,
Jalna.

9. The Head Master,
Dr. Frezer Boys High School,
Jalna.
10. The Head Master,
Shri Yoganand Madhyamik Vidyalaya,
Partur, District Jalna.
11. The Head Master
S. B. High School, Bharadi,
Taluka District Aurangabad.
12. The Head Master,
Shri Chatrapati Vidyalaya,
Ankush Nagar, Wadigodri,
Taluka Ambad, District Jalna.
- 13 The Head Master,
B. Z. Urdu High School,
Khadka Road, Bhusawal,
Taluka Bhusawal, District Jalgaon.

...Respondents.

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Mrs. A. N. Ansari, Advocate for petitioners.

Mr. Y. G. Gujarathi, AGP for respondent Nos. 1 to. 6.

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WITH
WRIT PETITION NO. 6822 OF 2018

Kalpana w/o. Chandrashekhar Shinde,
Age 38 years, Occu. Household,
Resident of Mohadi Upnagar Road,
Dhule, Taluka District Dhule.

...Petitioner.

Versus

1. The State of Maharashtra,
Through Secretary,
Education and Sports Department,
Mantralaya Mumbai- 400 032

2. The Director of Education,
Maharashtra State Pune.
3. The Deputy Director of Education,
Nasik Division, Nasik.
4. Accountant General, (A&E),
Maharashtra State, Mumbai.
Pratishta Bhavan, Old CGO Building,
Bilmaharshi Karve Marg, 2nd Floor,
Mumbai – 400 020.
5. The Education Officer (Secondary),
Zilla Parishad Dhule.
6. The Principal,
Shri Pimpladevi Madhyamik Vidyala,
Mohadi, Dhule Taluka District Dhule.

....Respondents.

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Mrs. A. N. Ansari, Advocate for petitioner.

Mr. Y. G. Gujarathi, AGP for respondent Nos. 1, 3 & 5.

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**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATED : 11/03/2022.

ORAL JUDGMENT :

1. Rule. Mr. Y. G. Gujarathi waives service for State. Rest of the respondents are absent though served. No reliefs are sought against other respondents. Rule made returnable forthwith. By consent heard finally.

2. By these petitions filed under Article 226 of the Constitution of India, the petitioners are seeking the status of Full Time Librarian from their respective date of appointment, except few of the petitioners and prays for declaration that the condition imposed in Government Resolution dated 3.8.2006 and more particularly clause Nos. 1, 3 and 4 be declared as unjust, improper, arbitrary, illegal and contrary to the recommendations of Chiplunkar Committee accepted by the Government.

3. The learned counsel for the parties jointly state that the facts and issues involved in these writ petitions are by and large identical. Both the parties have accordingly addressed this Court in lead matter i.e. Writ Petition No. 14935/2017 and agree that the outcome of this writ petition will apply to the other matters on board along with this writ petition. We are accordingly summarizing the facts in Writ Petition No. 14935/2017.

4. It is the case of petitioners that on 14th June 1996 petitioner No. 1 was appointed as Part Time Librarian. On 18th January 1996 petitioner No. 2 was appointed as Part Time Librarian. In the year 1996, petitioner No. 3 was appointed as Part Time Librarian. In

October 1994 petitioner No. 4 was appointed as Part Time Librarian. On 20th January 1998 petitioner No. 5 was appointed as Part time Librarian. On 1st February 1996 petitioner No. 6 was appointed as Part Time Librarian. On 13th June 1997 petitioner No. 7 was appointed as Part Time Librarian. All these appointments were duly approved by the Education Officer.

5. On 28th June 1994 the State Government appointed Chiplunkar Committee for ascertaining the prevailing conditions and for making recommendations as regard the number of teaching and non teaching staff including the post of Librarian in Secondary and Higher Secondary Schools. The said report submitted by Chiplunkar Committee was accepted by the Government Resolution dated 28th June 1994 and the State Government resolved to amend the provisions of Secondary and Higher Secondary Code. Para No. 4 of the resolution provided that the said report of Chiplunkar Committee shall be treated as provision of Secondary and Higher Secondary School Code.

6. Insofar as the post of Librarian is concerned, the said Committee recommended that once it is accepted in principle that number of full time and part time Librarian should be in the ratio of

strength of the students more than 1000, the employees who were working as Part Time Librarian are to be treated as Full Time Librarian after the strength of students is increased more than 1000.

7. Several writ petitions were filed by various Part Time Librarians in this Court for seeking benefit and recommendations made by Chiplunkar Committee which were accepted by the State Government. The learned counsel for the petitioners invited our attention to some of the exhibits annexed to the petitions and would submit that in respect of petitioners in this petition and the other petitions listed along with this petition, the strength of students exceeded 1000 on different dates. Each of the petitioners are seeking the benefit of the Chiplunkar Committee Report on the date of the strength of students having increased to more than 1000. She relied upon the following judgments :-

- (i) Judgment delivered by this Court at Aurangabad Bench in Writ Petition No.2732/2013 dated 1.4.2015 (Sayed Khaled s/o. Sayed Abdul Hameed Vs. The State of Maharashtra),
- (ii) Judgment delivered by this Court at Principal Seat in Writ Petition No. 2311/2013 dt. 3.3.2015 (Satish Ganpatrao Patil and Ors. Vs. The State of Maharashtra and Ors.),
- (iii) Judgment delivered by this Court at Nagpur Bench in Writ Petition No. 1994/2018 dated 9.12.2019 (Anil

Parasram Shende Vs. The State of Maharashtra and Ors.),

(iv) Judgment delivered by this Court at Aurangabad Bench in Writ Petition No.15008/2017 dated 9.10.2019 (Balasaheb s/o. Shripati Munde Vs. The State of Maharashtra and Ors.) and

(v) Judgment delivered by this Court at Aurangabad Bench in Writ Petition No. 10426/2015 dated 22.2.2019 (Uttam s/o. Sandu Badak and Ors. Vs. The State of Maharashtra and Ors.).

8. Mr. Gujrathi, learned AGP on the other hand invited our attention to affidavit in reply filed by the State Government in Writ Petition No. 8981/2018 and would submit that these petitioners have taken benefit of existing scheme introduced by the State Government from the date of appointment for more than 10 years and have belatedly filed these petitions for taking benefit on the basis of recommendations made by Chiplunkar Committee. The petitioners cannot be granted any relief on the ground of delay itself. He relied upon the judgment of this Court in case of **Satish Ganpatrao Patil and Ors. Vs. The State of Maharashtra and Ors.** Cited supra and would submit that in the similar facts on hand, the Division of this Court has rejected those petitions.

9. The learned counsel for petitioners in rejoinder argument

invited our attention to the judgment of this Court in case of **Sayed Khaled s/o. Sayed Abdul Hameed Vs. State of Maharashtra** cited supra and more particularly para No. 1 of the operative order of the said judgment and would submit that after considering the issue of delay, this Court though had directed that the petitioners therein shall be considered as Full Time Librarian from the date of his initial appointment in view of the fact that, the strength of the students is increased and crossed more than one thousand. It was however made clear that the said date shall be considered for notional pay fixation, so also for time bound promotion and other retiral and pensionary benefits. However, the petitioners therein would not be entitled for the difference of salary from 12.12.1995 till 2006. The learned counsel states that in all these petitions, the petitioners are not pressing for monetary reliefs from the date of initial appointment. She, however, submits that the similar reliefs which were granted to the petitioner in case **Sayed Khaled s/o. Sayed Abdul Hameed Vs. State of Maharashtra** cited supra be granted in the facts of these cases also.

10. It is not in dispute that all these petitioners were appointed as Part Time Librarian on different dates. In some of the cases the strength of the students had already crossed 1000 on the

date of their appointment as Part Time Librarian and in some of the matters it crossed subsequently.

11. The State Government has not disputed the appointment of Chiplunkar Committee who submitted report on various issues after considering the prevailing conditions of the number of teaching and non teaching staff including the Librarian in Secondary and Higher Secondary Schools. The State Government accepted the said Report by Government Resolution dated 28th June 1994 and resolved to amend the Secondary and Higher Secondary School Code. Para 4 of the said resolution provided that the provisions of the Secondary and Higher Secondary School Code shall stand amended in view of the norms laid down by the Chiplunkar Committee.

12. Insofar as the post of Full Time and Part Time Librarian is concerned, the said report recommended that the said posts should be in the ratio of strength of students. If the strength of the students is more than 1000, such Part Time Librarian would be entitled for status of Full time Librarian from the date of appointment and the same are entitled from the date of students having increased to 1000.

13. In our view, since the State Government has accepted the recommendations of Chiplunkar Committee and has treated the said report as being part of Secondary and Higher Secondary School Code, the respondents could not have refused the benefits recommended by the Chiplunkar Committee to all these petitioners who were treated as Part Time Librarian even after the date of strength of the students having increased more than 1000.

14. This Court in case of **Sayed Khaled s/o. Sayed Abdul Hameed** cited supra, after considering the identical issue and after advertng to the judgment of the Division Bench of this Court at Nagpur in **Writ Petition No. 6630/2013** with connected matters in the case of **Ravindra Nana Patil Vs. The State of Maharashtra and Ors.**, held that the petitioners therein shall be considered as Full Time Librarian from the date of their initial appointment i.e. 12th December 1995 in view of the fact that the strength of the students was increased and crossed more than 1000. The said date shall be considered for notional pay fixation and also for time bound promotion and other retiral and pensionary benefits. This Court, however, made it clear that the petitioners therein would not be entitled for the difference of salary from 12.12.1995 i.e. the date of initial appointment till 2006 i.e.

the strength of students increased beyond 1000. Similar view is taken by this Court in other judgments referred supra.

15. Insofar as the judgment of this Court in case of **Satish Ganpatrao Patil** supra relied upon by the learned AGP is concerned, a perusal of the prayers which were for consideration of this Court in judgment clearly indicates that the petitioners therein were Part Time Librarians and they contended that their case was governed by old pension scheme i.e. Maharashtra Civil Services (Pension) Rules 1982 as they came to be appointed prior to 1.11.2005. The facts before this Court in the said judgment and reliefs sought was totally different. In our view, the said judgment would not apply to the facts of these cases even remotely. The reliance placed by the learned AGP on the said judgment is totally misplaced.

16. We are conscious of the fact that there is delay on the part of petitioners in filing these petitions. Representations filed by the petitioners were pending for consideration before the State Government. Large number of Part Time Librarians were affected and came to know about their rights only after the acceptance of Chiplunkar Committee Report by the State Government who

recommended that if the strength of the students exceeded 1000, the Part Time Librarian shall be treated as Full Time Librarian.

17. Be that as it may, this Court in case of **Sayed Khaled s/o. Sayed Abdul Hameed** cited supra after considering the aspect of delay had though conferred the status of Full Time Librarian from the date of initial appointment to the petitioner in that matter and held that the petitioner would not be entitled for the difference of salary from the date of initial appointment till the date of increased students above 1000. Similar relief can be granted in these petitions also which would serve the purpose of both the sides.

18. The principles laid down in the case of **Sayed Khaled** cited supra and which is relied upon by the learned counsel for the petitioners would apply to the facts of this case. There is no merit at all in any of the submissions advanced by the learned AGP. We accordingly pass the following order.

ORDER

- (i) The petitioners shall be considered as Full Time Librarian from the date of their initial appointment in each of this case. The said date shall be considered for

notional pay fixation, so also for time bound promotion and other retiral and pensionary benefits. It is made clear that the petitioners would not be entitled for the difference of salary from their initial appointment till the date of acceptance of the Chiplunkar Committee by the State Government.

- (ii) The respondents shall compute and pay the amount payable to the petitioners in each case. The difference of salary payable to the petitioners is from the date of the strength of students having exceeded 1000 in each case.
- (iii) The respondents to give effect to this order within eight weeks from today without fail.
- (iv) The aforesaid writ petitions are allowed accordingly. Rule is made absolute in aforesaid terms. No order as to costs.

Parties to act on authenticated copy of this order.

[S. G. MEHARE, J.]

[R. D. DHANUKA, J.]