

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

WRIT PETITION NO.13700 OF 2018

Nashik Mahanagar Palika Shikshak
Kruti Samiti
(through President
Dilip Barku Pawar), Nashik

..... Petitioner

Vs.

1. Nashik Municipal Corporation
(School Education Department)
(Through its Education Officer)
Nashik Municipal Corporation, Nashik

2. The State of Maharashtra
(Through its Secretary),
School Education and Sports
Department, Mantralaya, Mumbai

..... Respondents

Mr.Vivek V. Salunke for the Petitioner
Mr.Subhash Gutte for Respondent no.1
Ms.A.A.Purav, A.G.P. for Respondent no.2 – State

**CORAM: A.S.CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ.
DATED : 18th DECEMBER 2023**

ORAL JUDGMENT (PER : A.S.CHANDURKAR, J) :

1. Rule. Rule made returnable forthwith.
2. Heard the learned Counsel for the parties.
3. The Petitioner – an Association of teachers seeks a declaration that the services of its members whose names are mentioned in Annexure “A” are governed by the Old General Provident Fund Pension Scheme that was in operation till 31st October 2005. It is the case of the Petitioner that

pursuant to the orders passed by this Court on 29th April 2005, in Writ Petition Nos.9412 of 2004, 9452 of 2004 and 10312 of 2004, a direction was issued to appoint the Petitioners on the post of Shikshan Sevak subject to possessing requisite qualification. The order dated 29th April 2005 was directed to be complied with within a period of eight weeks.

4. Pursuant to the aforesaid direction, the School Education and Sports Department of the State Government issued a direction to the Administrative Officer, Nashik Municipal Corporation to implement the aforesaid direction. In view of various such directions, the Petitioners were ultimately appointed on the post of Shikshan Sevak on 13th February 2006. It is on this premise that the Petitioners contend that since the recruitment process commenced prior to 1st November 2005, the services of the Petitioners would be governed by the Old General Provident Fund Pension Scheme.

5. Undisputedly, during pendency of the Writ Petition, the first Respondent - Nashik Municipal Corporation has on 27th January 2020 issued a communication to the State Government stating therein that the services of the Petitioners whose names are mentioned in Annexure “A” of the Writ Petition shall be governed by the provisions of the said Old General Provident Fund Pension Scheme. A further communication on 7th October 2022 has been issued to the Director of Education (Primary) indicating the financial implication of applicability of the Old General

Provident Fund Pension Scheme.

6. In the light of the aforesaid undisputed position, wherein the first Respondent has accepted the fact that the Petitioners are entitled for the benefit of the Old General Provident Fund Pension Scheme, it is held that both the Respondents shall take all necessary steps to ensure that the Petitioners as mentioned in Annexure "A", receive benefits of the Old General Provident Fund Pension Scheme expeditiously. Such steps be taken and the benefits be released in favour of the Petitioners by 31st March 2024.

7. The first Respondent shall also consider whether the relief sought by the Petitioner in prayer clause (c) which reads as under can be granted:

“(c) this Hon’ble Court be pleased to further direct the Respondents to calculate the respective temporary services rendered by the respective members of the Petitioner, prior to their respective regular appointments, as worked out in the Statement of Service particulars (annexed at Exhibit-A), and further consider such respective temporary service period of the respective members of the Petitioner for fixing their respective pay scale and other monetary benefits and further release arrears of pay to the respective members of the Petitioner accordingly.”

8. The aforesaid exercise shall also be undertaken by 31st March 2024.

9. Rule is disposed of in aforesaid terms. No order as to costs.

(FIRDOSH P. POONIWALLA, J.)

(A.S.CHANDURKAR, J.)