



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3294 OF 2025

Ravi s/o Uma Rathod ... **Petitioner**
Age 37 Years, Occu: Service
R/o House No.5-9-022, Lane No.19,
Sanjay Nagar, Mukundwadi,
Chhatrapati Sambhajinagar

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Tribal Development Department
Mantralaya, Mumbai-32
2. The Divisional Commissioner,
Tribal Development Department,
Maharashtra State, Nashik,
Tribal development Bhavan, Ground Floor,
Gadkari Circle, Old Agra Road, Nashik
3. The Additional Commissioner,
Tribal Development, Amravati,
Near Police Commissioner Office,
Behind TB Hospital, Amravati
4. The Project Officer, ... **Respondents**
Unitary Tribal Development
Aurangabad (Chh. Sambhaji Nagar)
APMC, 3rd Floor,
Gajanan Mandir Road, Garkhada,
Chhatrapati Sambhaji Nagar
5. The Headmaster,
Government Secondary Ashram School,
Hatti, Tq. Sillod Dist. Ch. Sambhajinagar

Shri Yogesh D. Kale, Advocate for the Petitioner,
Ms. D.S. Jape, AGP for the Respondents/State

CORAM : MANGESH S. PATIL &
Y. G. KHOBRAGADE, JJ.
DATE : 12.03.2025

ORDER (Per: Y. G. Khobragade, J.)

1. Heard Mr. Yogesh D. Kale, the learned counsel for the petitioner. Learned AGP waives notice for respondents 1 to 3/ State.

2. By the present petition under Article 226 of the Constitution of India, the petitioner prays for issuance of writ of mandamus for quashing and setting aside the order dated 14.01.2025 passed by respondent no.1, whereby the petitioner's request for grant of 24 months of study leave has been rejected.

3. Having regard to the submissions canvassed on behalf of the petitioner, we have gone through the petition paper book.

4. The petitioner was initially appointed as an Assistant Teacher in respondent No. 5 School on 04.09.2009 and subsequently he has been promoted as a Graduate Primary Teacher on 22.06.2021. The petitioner has cleared State Eligibility Test (SET) in MSW. Now, he wants to pursue Ph. D. in Commerce. He applied for provisional admission to Ph.D. Course with Kavayatri Bahinabai Chaudhari, North

Maharashtra University, Jalgaon, which has been confirmed by the University on 20.12.2023. Therefore, on 27.12.2023, he has submitted an application to respondent Nos. 4 and 5 and prayed for grant of study leave and permission to pursue Ph.D., course. On 05.02.2024, the petitioner again submitted an application and prayed for grant of study leave but no such action was taken. Therefore, again on 04.03.2024, the petitioner submitted an application with Respondent No.2 Divisional Commissioner, Tribal Development and prayed for study leave to pursue higher education i.e. Ph.D. but no action was taken. As such, the petitioner had filed Writ Petition No. 5297 of 2024 before this Court seeking issuance of directions to decide said application. On 10.06.2024, this Court passed an order and directed respondent no.2 to deal with the request of the petitioner in accordance with the applicable service rules within 60 days. In compliance of said order, on 14.01.2025, respondent No.1 passed the impugned order and rejected the application on ground that, as per Rule 80 of the Maharashtra Civil Services (Leave) Rules, 1981, the Ph.D. course of the petitioner in Commerce will not be helpful to the students in Ashram School.

5. Sub Rules (1), (2) and (3) of Rule 80 of the Maharashtra Civil Services (Leave) Rules, 1981 read as under:

80. Conditions for grant of study leave.-(1) Subject to the conditions specified in this Chapter, study leave may be granted to a Government servant with due regard to the exigencies of public service to enable him to undergo, in or out of India, a special course of study consisting of higher studies or specialised training in a professional or a technical subject having a direct and close connection with the sphere of his duty.

(2) Study leave may also be granted-

- (a) for a course of training or study tour in which a Government servant may not attend a regular academic or semiacademic course, if the course of training or the study tour is certified to be of definite advantage to Government from the point of view of public interest and is related to sphere of duties of the Government servant; and
- (b) for the purposes of studies connected with the frame work or back ground of public administration subject to the conditions that-
 - (i) the particular study or study tour should be approved by the authority competent to grant leave; and
 - (ii) the Government servant should be required to submit, on his return, a full report on the work done by him while on study leave;
- (c) for the studies which may not be closely or directly connected with the work of a Government servant, but which are capable of widening his mind in a manner likely to improve his abilities as a civil servant and to equip him better to collaborate with those employed in other branches of the public service.

(3) Study leave shall not be granted unless-

- (a) It is certified by the authority competent to grant leave that the proposed course of study or training shall be of definite advantage from the point of view of public interest;
- (b) It is for prosecution of studies in subjects other than academic or literary subjects:

Provided that a Medical Officer may be granted study leave for prosecuting a course of post-graduate study in medical sciences, if the Director of Medical Education and Research certifies to the effect that such study shall be valuable in increasing the efficiency of such Medical Officer in the performance of his duties;

- (c) the Department of Economic Affairs of the Ministry of Finance, Government of India agrees to the release of foreign exchange involved in the grant of study leave, if such leave is outside India.”

6. Rule 80 provides discretionary powers to the competent authority to grant or reject the study leave as the word “may” is used. Sub Rule (2) provides that, study leave may be granted, if the course of training or the study is certified to be of definite advantage to the Government from the point of view of public interest. Sub Rule (3) provides that, study leave shall not be granted unless the competent authority certifies that, the proposed course of study or training should be of definite advantage from the point of view of public interest/benefit of the employer.

7. However, in case in hand, the petitioner wants to pursue Ph.D. in Commerce but he has not stated how his Ph.D. course in

commerce would be beneficial to the students of Ashram School in which the petitioner is employed. Nonetheless, the petitioner has not placed any certificate on record, issued by the competent authority, to show that the proposed Ph.D. course will be in the public interest or beneficial to the students of the Ashram school.

8. The petitioner is Graduate Primary Teacher. His application for study leave is rejected on ground that, his Ph.D. course in Commerce would not be beneficial to the students of Ashram School or the Management. Therefore, in our conscious view, the petitioner cannot claim study leave under Rule 80 as of right to pursue Ph.D. course. We do not find any manifest error or perversity in the impugned order. Hence, writ petition is dismissed.

(Y. G. KHOBRAGADE, J.)

(MANGESH S. PATIL, J.)

JPChavan