



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.4286 OF 2024
IN
REVIEW APPLICATION (STAMP) NO.9879 OF 2024

1. The State of Maharashtra
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Education Officer (Secondary)
Zilla Parishad, Ahmednagar.

.. Applicants

Versus

1. Rahane Anant Sukhadeo
Age: 50 years, Occu.: Librarian,
R/o. Chandanapuri, Tal. Sangamner,
District Ahmednagar.
2. Janata Shikshan Prasarak Mandal,
A/p. Chandanapuri, Tal. Sangamner,
District Ahmednagar
Through its Secretary.
3. Chandaneshwar Madhyamik Va Ucha
Madhyamik Vidyalaya,
A/o. Chandanapuri, Tal. Sangamner,
District Ahmednagar.

.. Respondents

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Mrs. P. R. Bharaswadkar, Advocate for the applicants/State.

Mr. S. T. Shelke, Advocate for respondent No.1/State.

Mr. P. D. Biradar, Advocate for respondent Nos.2 and 3.

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**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 28 JULY 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Present application has been filed for condonation of delay of 397 days in filing Review Application in Writ Petition No.976 of 2023 and to review the decision in respect of Writ Petition No.976 of 2023.

2. The State Government was the respondent in Writ Petition No.976 of 2023. The petitioner in the said writ petition prayed for writ of mandamus or any other appropriate writ to give directions to respondent Nos.1 and 2 to extend the benefits of Full Time Librarian to the petitioner. The matter was heard by the Division Bench of this Court and similar order was passed on the basis of earlier decisions of this Court. Now, the State intends to review this order, however, there is delay, as aforesaid.

3. Heard learned AGP Mrs. P. R. Bharaswadkar for the applicants/State, learned Advocate Mr. S. T. Shelke for respondent No.1 and learned Advocate Mr. P. D. Biradar for respondent Nos.2 and 3.

4. Learned AGP vehemently submits that the petitioner was challenging the Government Resolution dated 03.08.2006, thereby restricting the up-gradation of Part Time Librarian to Full Time Librarian from 01.04.2006 only. It was stated that it was contrary to Rule 30, 33 of the Maharashtra Civil Services (Pension) Rules, 1982 as well as Article

14 of the Constitution of India. However, the petitioner was not at all entitled for the pension as his service was not pensionable as per the rules itself. When the Department came across the proposals and other Judgments, then this situation was pointed out and, therefore, there is delay, which is not deliberate at all. She submits that this Court had relied on the decisions in **Ganesh Narhar Chavan vs. The State of Maharashtra and others** in Writ Petition No.14935 of 2017 decided on 11.03.2022, **Punjabari Baburao Dighe and others vs. The State of Maharashtra and others** in Writ Petition No.12902 of 2018 decided on 06.05.2022 and **Raju Kishanrao Pawar vs. The State of Maharashtra and others** in Writ Petition No.2074 of 2020 decided on 01.10.2022, however, prior to that there was a decision of this Court in **Satish Ganpatrao Patil and others vs. The State of Maharashtra and others** in Writ Petition No.2311 of 2013 decided on 31.03.2015, wherein the same Government Resolution was already held to be not violative of Article 14 and/or Article 21 of the Constitution of India. The case of the present petitioner was not distinguished from the case in **Satish Ganpatrao Patil (Supra)**, therefore, the subsequent decisions have been rendered *per incuriam* and this position has been considered in **Sunil Subhash Ekhande vs. The State of Maharashtra and others** in Writ Petition No.11525 of 2018 decided at the Principal Seat on 01.08.2023. She further submitted that the State has been granted

permission to approach the Hon'ble Supreme Court challenging the order passed by this Court in Civil Application No.11390 of 2024 in Review Application (Stamp) No.26108 of 2024 dated 27.02.2025. Therefore, the decision in the present case is required to be reviewed.

5. Per contra, respondents – original petitioners strongly opposed the delay condonation application and review application by submitting that no reasonable ground has been shown for condonation of delay. All the facts were known to applicants/State. Still there were no submissions advanced nor the decision in **Satish Ganpatrao Patil** (*Supra*) was shown and relied by the Government. Therefore, there is absolutely no necessity to review the decision in the present case.

6. The first and the foremost point that is required to be decided is the delay condonation application. Perusal of contents of the application would show that absolutely no reasonable ground has been shown for condonation of delay. It is lamely stated that the delay is caused because when the Department came across the proposals and other Judgments, then it was found that the petitioner never worked on 100% grant-in-aid post as a Full Time Librarian around and on 01.11.2005 and, therefore, he was not entitled for the pension. When it was not his pensionable service, question of up-gradation and grant of pension and the consequential benefits was not in question. Then it is stated that

time was spent to collect the individual record from concerned Departments and further time was consumed due to administrative exigencies. Here, the delay is of 397 days. If we consider the order passed in Writ Petition No.976 of 2023, then it can be seen that it is passed on 30.01.2023. As aforesaid, the reliance was placed on three decisions i.e. **Ganesh Chavan** (Supra), **Punjahari Dighe** (Supra) and mainly on **Raju Pawar** (Supra) and, therefore, the directions were given to the State that the State would verify the case of the petitioner in the light of service condition and tenure of employment and upon conferring that he is entitled for the benefits in the light of two Judgments i.e. **Ganesh Chavan** (Supra) and **Punjahari Dighe** (Supra), the State would proceed to extend such benefits to them as expeditiously as possible and preferably on or before 31.03.2023. Thus, the State had almost two months for collection of data and for considering the claim of the petitioner. Further, the order also stated that in cases where the State comes to the conclusion that a particular petitioner is not entitled for the particular benefit, then the reasoned order would be passed and the said order would be communicated to the petitioner within a period of 30 days. Therefore, in the light of these directions the collection of data ought to have been within a period of two months at that time itself, then the State ought to have come to the conclusion as to whether the petitioner is entitled to the relief claimed and conferred or not. But it

appears that no such activity had taken place within the aforesaid two months. Whatever the reason that has been now given is too general. When the Department started collecting data in respect of the petitioner before us now has not been explained with documentary evidence.

7. Interestingly, in this matter the State was the respondent. Learned AGP who was representing the State ought to have brought to the notice of Division Bench that already some decisions are given, which might be contrary to each other. Then the recourse which was available as per the law of precedent could have been taken. Now, only upon the decision in ***Sunil Subhash Ekhande (Supra)*** this application has been filed. However, as we have called the original record of the petition, then we are able to consider that such petitions are there since 2015 at least before the Benches and at the Principal Seat. Photocopies of those decisions were part and parcel of this petition. Those decisions are :

- 1) ***Uttam Sandu Badak and others vs. The State of Maharashtra and others*** in Writ Petition No.10426 of 2015 decided on 22.02.2019.
- 2) ***Balasaheb Shripati Munde vs. The State of Maharashtra and others*** in Writ Petition No.15008 of 2017 decided on 09.10.2019.
- 3) ***Punjabari Baburao Dighe and others vs. The State of Maharashtra and others*** in Writ Petition No.12902 of 2018 with companion matters decided on 06.05.2022.

- 4) **Rajendra Rangnath Sambhus vs. The State of Maharashtra and others** in Writ Petition No.6337 of 2019 decided on 04.07.2022.
- 5) **Raju Kishanrao Pawar vs. The State of Maharashtra and others** in Writ Petition No.2074 of 2020 with companion matters decided on 01.10.2022.
- 6) **Kiran Keshavrao Girhe and others vs. The State of Maharashtra and others** in Writ Petition No.6630 of 2013 with companion matters decided on 28.01.2015.

It is further to be noted that in **Punjabari Dighe (Supra)**, the earlier decisions in many matters were relied. The Government Pleaders then representing had also relied on some decisions including the decision in **Satish Ganpatrao Patil (Supra)**. Paragraph No.56 of that Judgment clearly shows about the scope which was decided in **Satish Ganpatrao Patil (Supra)** and a specific statement has been made that since the case is totally different and distinguishable on the facts the point is not required to be referred to Larger Bench. Then paragraph No.58 also takes note of the submission on behalf of Government that in Judgments relied by petitioners Government Resolution of 2006 was not considered and, therefore, those Judgments were *per incuriam*. That point has also been dealt with by the Division Bench and it was specifically then observed that the Government Resolution dated 03.08.2006 taking away the rights vested in the employees under

Government Resolution dated 28.06.1994 is illegal, arbitrary and violative of Article 14 of the Constitution of India. The learned AGP appearing before us has not stated that the State has approached Hon'ble Supreme Court challenging the decision in ***Punjabari Dighe (Supra)*** and whether any stay has been granted to the operation of Judgment and order therein. Thereafter, in ***Raju Kishanrao Pawar (Supra)*** other companion matters were also considered, wherein also decision in ***Punjabari Dighe (Supra)*** was cited, so also ***Satish Ganpatrao Patil (Supra)***. Same points appear to have been raised on behalf of Government and in paragraph No.13 of the decision in ***Raju Kishanrao Pawar (Supra)*** it is observed that the State of Maharashtra has neither challenged the decision in ***Ganesh Chavan (Supra)*** nor ***Punjabari Dighe (Supra)*** before Hon'ble Supreme Court nor review petitions were filed. Paragraph Nos.14 and 15 were on the point as to why the Division Bench dealing with the decision in ***Raju Kishanrao Pawar (Supra)*** relied on ***Ganesh Chavan (Supra)*** and ***Punjabari Dighe (Supra)***. All these things, therefore, were considered in those matters. Thereafter, it appears that those decisions were then cited before the coordinate Bench in ***Sunil Subhash Ekhande (Supra)***, who has taken a different view. However, the fact remains is, when the case of ***Sunil Subhash Ekhande (Supra)*** has been decided on 01.08.2023 but prior to that there are decisions which have attained finality, then only on the

basis of decision in ***Sunil Subhash Ekhande (Supra)*** whether review is permissible. Another fact which is now emerging from the original petitioner is that in some of the matters which have been decided by this Court the benefits have been conferred, therefore, again there would be disparity. It is only due to the delay that has been caused by the State Government. For some persons implementation of the order was the recourse taken by the State and now, only in another matter when the decision is in favour of the State Government, the Government states that there should be review. This approach of the State Government is absolutely not proper. Immediately after the decision in ***Ganesh Chavan (Supra)*** and ***Punjabari Dighe (Supra)*** if the steps would have been taken by the State Government to challenge those decisions before Hon'ble Supreme Court and then if the Judgment and order passed in those matters would have been stayed, every confusion or so called illegality would have been avoided.

8. The reason for the delay is absolutely not explained and general reason has been given that when Department came across the proposals the facts came to the knowledge of the State. In fact, the facts were never suppressed by the petitioner. Every details regarding the petitioner's appointment and the service conditions, duration was available with the Education Department and, therefore, though in the present matter two months time was given, the State has not taken

appropriate steps in its own interest. Therefore, both the applications i.e. civil application for condonation of delay as well as review application deserve to be dismissed. As aforesaid, the delay has been caused unnecessarily. At the cost of repetition, it appears that though two months time was given, neither the State has gone ahead to obey the steps which were required to be taken for obeying the orders of the Court in the said petition nor took a decision to challenge the order. Though State has been granted permission to challenge the order passed by this Court in ***The State of Maharashtra and others vs. Ramesh Kashinathrao Hatte and another, [Civil Application No.11390 of 2024 with companion matters decided on 27.02.2025]*** before the Hon'ble Supreme Court, however, granting permission has nothing to do with this matter, which has to be considered independently and at this stage, we cannot take a different view.

9. Hence, the Civil Application stands dismissed.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm