



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

43 WRIT PETITION NO. 7123 OF 2025

DEVESH VASANTRAO NAIK

VERSUS

**DINDAYAL UPADHYAY SHIKSHAN SANSTHA THROUGH ITS
PRESIDENT AND OTHERS**

...

Mr. Mayur Subhedar h/for Mr. Godbole R.J., Advocate for the Petitioner
Mr. D. R. Korade, AGP for Respondents-State
Mr. S. V. Gundre, Advocate for Respondent No.1
Mr. Natu Sharad V., Advocate for Respondent No.2

....

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 08.07.2025

PER COURT :-

1. The present writ petition takes exception to order dated 15.04.2025 passed by Regional Deputy Director Latur / respondent No.4, thereby rejecting petitioner's application seeking amendment in appeal memo.

2. Mr. Subhedar, learned Advocate submits that petitioner has filed appeal before respondent No.4 seeking direction for continuation in services, as he was prevented by respondent / management from attending school giving reason that his voluntarily resignation tendered to management is accepted. In paragraph No.4 of appeal memo, petitioner specified that taking disadvantage of his signature on blank stamp paper, resignation is prepared and same has been utilized against him. Respondents refuted petitioner's claim raising contentions that

petitioner is not in service. He had tendered voluntarily resignation on bond paper of Rs.50/-. The vacancy arose on resignation of petitioner is already filed up. In light of aforesaid contention of respondents, petitioner sought amendment in appeal memo to explain theory of his resignation and insert suitable prayer. However, respondent No.4 rejected petitioner's application for amendment vide impugned order dated 15.04.2025. Learned Advocate appearing for petitioner submits that proposed amendment is essential to finally adjudicate controversy between the parties. Proposed amendment would not change nature of dispute and respondent would have every opportunity to refute contentions sought to be inserted by way of amendment.

3. Per contra, Mr. Gundre, learned Advocate appearing for respondent No.1 and Mr. Natu, learned Advocate appearing for respondent No.2 vehemently opposes petition. They would submit that petitioner had initially put up case of otherwise termination. The Appeal has been pending since 2007. Respondents have immediately put up defence of resignation by petitioner. In this backdrop, present application is belatedly filed after 12 years. According to respondents, nature of controversy would change, in case prayer for amendment is allowed at this stage. With such contention, they justify impugned order.

4. Having considered submissions advanced, it can be observed

that petitioner had presented appeal contending that respondents have prepared false resignation letter depicting that petitioner voluntarily left service, hence, he approached respondent No.4 seeking relief of continuation of service and release of consequential benefits. Apparently, respondents took plea of voluntarily resignation of petitioner.

5. In light of aforesaid pleadings in appeal memo and reply, if proposed amendment is seen, it is discernible that petitioner wishes to elaborate original contents of appeal memo and also put explanation on defence put forth by respondents. Consequently, petitioner is seeking amendment in prayer clause, to seek declaration that disputed resignation relied by respondent / management is false and bogus. Apparently, proposed amendment would not change nature of controversy before Appellate Authority. Respondents are at liberty to controvert statements of facts sought to be introduced by way of amendment. They can contest prayer sought to be inserted by way of amendment.

6. In that view of the matter, amendment could have been allowed. The reason supplied in impugned order that appeal is pending since 2007 and application for amendment is belatedly made in the year 2019 cannot be countenanced in the facts of the case, when appeal is still pending at the stage of hearing. No prejudice would cause if amendment is allowed. On other hand dispute can be finally settled between parties.

7. In that view of the matter, writ petition is **allowed** in terms of prayer Clause 'B'

[S. G. CHAPALGAONKAR, J.]

HRJadhav