

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 201 OF 2025

Mr. Rajesh G. Aresekar, Son of Shri Gopi
Arsekar, Aged 61 years, Indian National, R/o.
F6. Bldg A2, Kurtarkar, J. M. Symphony,
Ambaji, Fatorda, Goa.

... Petitioner

V e r s u s

1. State of Goa, Through Chief Secretary,
Porvorim, Goa.
2. The Director Directorate of Education,
Porvorim, Goa.
3. The Chairman Shri Saraswati Dnyan
Prasarak, Sauntha, Kavle, Ponda, Goa.
4. The Chairman, Shcool Managing
Committee, Shri Saraswati Higher Secondary
School, Kavle, Ponda, Goa.
5. The Principal, Shri Saraswati Higher
Secondary School, Kavle, Ponda, Goa.
6. The Director, Directorate of Accounts, ... Respondents
Alto-Porvorim.

Ms. Apeksha Kalokhe, Advocate *for the Petitioner.*

Mr. Amogh Arlekar, Additional Government Advocate *for
Respondent nos. 1, 2 and 6.*

Mr. S. D. Padiyar, Senior Advocate *with Mr. P. Shirodkar,
Advocate for the Respondent nos. 3 and 4.*

Mr. Sagar Sarmalker, Advocate *(through VC) for Respondent no.
5.*

**CORAM: SARANG V. KOTWAL &
ASHISH SAHADEV CHAVAN, JJ.**

DATE: 6th NOVEMBER, 2025

ORAL ORDER (*Per Sarang V. Kotwal, J.*)

1. Heard Ms. Kalokhe, learned Counsel appearing for the Petitioner, Mr. Arlekar, learned Additional Government Advocate appearing for the Respondent nos. 1, 2 and 6, Mr. Padiyar, learned Senior Counsel appearing for Respondent nos. 3 and 4 and Mr. Sarmalker, learned Counsel appearing for the Respondent no. 5.

2. The Petitioner was appointed as Physical Education Teacher in Saraswati Higher Secondary School, Kavle, Goa, vide Order of appointment dated 17.06.1993. The Respondent no. 3 is the Chairman of Shri Saraswati Dnyan Prasarak Sauntha, the Respondent no. 4, the Chairman of the School Managing Committee and the Respondent no. 5 is the Principal of the said School.

The subject matter of this Petition pertains to the Order dated 05.09.2024. The order reads thus :

“

ORDER

WHEREAS Shri Rajesh Gopi Arsekar, Teacher Gr-I of Shri Saraswati Higher Secondary School, Kavlem was suspended with effect from 21st June 2022 for gross misconduct and said teacher remained under suspension till 12th January, 2023 when his suspension was revoked in terms of Order dated 12.01.2023,

considering the period of suspension undergone by him and considering his service to the school.

NOW THEREFORE the period of suspension of 205 days undergone by him should be treated as period 'not spent on duty' and said teacher shall not be eligible for pay and allowances except the subsistence allowance permissible under the law."

3. This order was preceded by suspension orders passed against the Petitioner on two occasions i.e. on 06.09.2022 and 22.11.2022. The first order dated 06.09.2022 was quashed by Respondent no. 2, the Director, Directorate of Education, Porvorim Goa, and the second Order dated 22.11.2022, was revoked by the Respondent nos. 3 and 4. In the result, according to the learned Counsel for the Petitioner, he is entitled for all the benefits regarding his salary and pension for the period between 21.06.2022 till 12.01.2023, which comes to around 205 days.

4. The present Petition is filed with the following prayers :

"a) That by a Writ of Certiorari or a Writ, Order and/or direction in the nature of Certiorari and/or any other appropriate Writ, Order or direction, under Article 226 & 227 of the Constitution of India, this Hon'ble Court may be pleased to quash and set aside the Order bearing No. SSHSS/2024-2025/G-30/109 dated 05/09/2024 passed by the Respondent No. 4 herein and consequently to regularise the period of Suspension of 205 days from 21/06/2022 to 12/01/2023 thereby treating the said period as spent on duty by the Petitioner.

(b) That by a Writ of Mandamus or a Writ, Order and/or direction in the nature of Mandamus and/or any other appropriate Writ, Order or

direction, under Article 226 & 227 of the Constitution of India, this Hon'ble Court may be pleased to command and direct the Respondent No. 2 to 6 or any of them, jointly or severally to release the salary pending during the Period of Suspension that is from 21/06/2022 till 12/01/2023 to the Petitioner expeditiously and in any event within a period of 30 days or such other period as this Hon'ble Court may deem fit to direct.”

5. In this background, learned Senior Counsel appearing for the Respondent no. 4, has tendered an affidavit in reply, which is taken on record. It is mentioned in the said affidavit as follows :

“1. I state that the Order dated 05.09.2024 bearing No. SSHSS/2024-2025/G-30/109 at Annexure L to the petition, whereby the petitioners period of suspension of 205 days was ordered to be treated as period 'not spent on duty' was passed by the school management under a bona fide belief that as the concerned teacher had remained suspended during the said period, he would not be entitled to full salary. However, though the disciplinary proceedings were initiated no enquiry was held against the Petitioner. In such circumstances as no enquiry was held, it is realized that he would be entitled to the salaries and allowances for the said period minus the subsistence allowance received by him. In such circumstances it is stated that the Order dated 05.09.2024 bearing No. SSHSS/2024-2025/G-30/109 at Annexure L to the petition stands revoked/annulled.”

Thus, based on this affidavit in reply, the grievance of the Petitioner as far as prayer clauses (a) and (b) is concerned, it is taken care of. Learned Counsel for the Petitioner, therefore, does not press

for these prayers. There is one more important prayer made in this Petition which is an amended prayer clause (cc), which reads thus :

“(cc) That by a Writ of Mandamus or a Writ, Order and/or direction in the nature of Mandamus and/or any other appropriate Writ, Order or direction, under Article 226 & 227 of the Constitution of India, this Hon'ble Court may be pleased to command and direct the Respondent No. 2 to 5 or any of them, jointly or severally to release the 10% of the General Provident Fund totalling to an amount of Rs.4,13,284/- standing at the credit of the Petitioner along with 18% interest from the date of retirement that is 31/10/2023 till the actual realisation of said amount expeditiously and in any event within a period of 30 days or such other period as this Hon 'ble Court may deem fit to direct.”

6. Learned Additional Government Advocate appearing for Respondent no. 2, has tendered an affidavit in reply which is also taken on record. However, since the grievance of the Petitioner is taken care of by the affidavit in reply filed on behalf of Respondent no. 4 and since the request made in the prayer clauses (a) and (b) stand satisfied, there would be a fresh calculation required to be made by the Respondents. Therefore, at this stage, it is not possible to consider prayer clause (cc) (amended).

At this stage, learned Counsel for the Petitioner does not press the prayer clause (cc) but seeks liberty to adopt appropriate remedy if his grievance is not redressed by the Respondents.

7. In this view of the matter, the Petition is disposed of by accepting the affidavit filed on behalf of the Respondent no. 4 and by giving liberty to the Petitioner to adopt appropriate remedy if the relief sought in prayer clause (cc) is not satisfied by the future steps taken by the Respondents.

With these observations, the Petition is disposed off.

ASHISH SAHADEV CHAVAN, J.

SARANG V. KOTWAL, J.