

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 3415 OF 2022

1) Shri. Jeevan Ganpatrao Kamble]
Aged 57 Yrs, Occ. Part time Assistant]
teacher, R/o. Dinbandu Housing Society]
Jaysingpur Tal. Shirol Dist. Kolhapur] **...Petitioner.**

Versus

1) The State of Maharashtra, Through the]
Secretary, School Education Department,]
Mantralaya, Mumbai-400 032]
2) The Education Officer (Sec) Zilla Parishad,]
Sangli.]
3) The President/Secretary Lokshikshan]
Mandal Vishrambag Sangli]
4) The Head Master]
Night High School, Sangli Dist. Sangli.] **...Respondents.**

Mr. Rahul S. Rane i/by Mr. Satyajit Rajeshirke for Petitioner.
Mr. V. M. Mali, A.G.P., for Respondent-State.

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Reserved on : November 19, 2025.

Pronounced on : November 21, 2025.

Uploaded on : November 21, 2025.

ORAL ORDER (PER : AJIT B. KADETHANKAR, J.)

(1) Heard Mr. Rahul S. Rane, learned Counsel for the Petitioner and Mr. V. M. Mali, learned Assistant Government Pleader for the Respondent-State.

(2) The Petitioner has put-forth the following prayers in the present Writ Petition:

"a] This Hon'ble Court may be pleased to issue Writ of Mandamus or any other Writ, order or direction and thereby direct the Respondent No. 3 & 4 to submit the proposal of the Petitioner as a Full Time Assistant teacher in the Respondent No. 4 Night School with effect from 1-6-2017 academic year 2017-18 in terms of the Government Resolution dated 17.5.2017 and further be pleased to direct the Respondent No. 2 to consider and grant the approval to the said proposal.

b] Cost of this petition be provided for.

c] Any other order in the interest of justice and kindness be passed as and when necessary."

(3) Mr. Rane, learned Counsel for the Petitioner would contend that the Petitioner possesses an educational qualification of M A (English) along with Bachelor of Education (B. Ed). That, after due process the Respondent No. 3-School Management appointed the Petitioner as 'Part Time Assistant Teacher' w.e.f 7th July 1999 at Respondent No. 4-Night School. It is further submitted that the Respondent No. 2 has granted approval for the services of the Petitioner vide order dated 13th October 1999.

(4) Mr. Rane, learned Counsel further submits that the Respondent No. 1-State issued a Government Resolution (for short **“GR”** for the sake of convenience) dated 17th May 2017 whereby service conditions to the teaching and non-teaching employees in the Night Schools were defined. It is submitted that the said GR was brought into force in view of the provisions of Right to Education Act, 2009.

(5) Mr. Rane would further submit that 4(2) of the GR dated 17th May 2017 made the post of Head Master, Clerk and Peon ‘Full Time Posts’ corresponding to the workload available in the School. It is also further provided that the post of Head Master to be filled in accordance with seniority. It is further contended that the clause 3(3) provides that post of teacher, if weekly workload is above 9 hours for the Secondary & Higher Secondary Teachers as per the hourly workload, such teachers would be entitled for proportionate salary applicable to the ‘Full Time Teachers’ pay scale as per the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (21/4).

(6) That, by introduction of a Corrigendum dated 8th June 2018 to the GR dated 17th May 2017 it was added that the post of Head Master be not only considered on the basis of seniority, but also on the basis of criteria of the eligibility as provided in the case of Head Master on regular/day schools.

(7) Mr. Rane, learned Counsel for the Petitioner then submitted that the validity of GR dated 17th May 2017 has been upheld by this Court (Bench at Nagpur) in Writ Petition No. [Ld.] No. 1541 of 2017 and Writ Petition No. 5989 of 2017. He would further submit that a challenge to the order dated 16th June 2017 passed by this Court (Bench at Nagpur) in the aforesaid Writ Petitions came to be turned down by the Hon'ble Supreme Court in Special Leave Petition (C) No. 8230 of 2018 vide its order dated 17th April 2018.

(7.1) That, the Director of Education [Secondary and Higher Secondary], M.S., Pune vide its letter dated 31st May 2017 directed all the Education Officers and Deputy Director of Educations to implement the GR dated 17th May 2017 scrupulously.

(7.2) He also submits that Respondent No. 1 vide letter dated 16th October 2017 directed by Commissioner of Education and Director of Education [Secondary and Higher Secondary], M.S., Pune, that if workload more than of 9 hours is available in Night School, then the Assistant Teacher working in Night School be granted approval of 'Full Time Teacher'.

(7.3) The Petitioner submits that pursuant to the above letters, the Petitioner filed representations to the Respondent No. 2 on 9th January 2018 and 1st February 2018 for upgrading him to the full time post, as the Petitioner is working on full time post of Assistant Teacher.

(7.4) He would further submit that pursuant to the letter dated 2nd December 2019 submitted by the Respondent No. 4, the Deputy Education Officer even fixed the workload available to the employees in the Respondent No. 4-Night School. It is further submitted that the Respondent No. 2 vide its order dated 29th September, 2020 directed the Respondent No. 3 to upgrade the employees in the Respondent No. 4-Night School as Full Time as per the report of the Deputy Education Officer who fixed the workload.

(8) Mr. Rane, adds that Respondent No. 4 in view of the direction given to the Respondent No. 3 by the Respondent No. 2 prepared workload for the year 2017-18 and 2019-20, in view of GR dated 17th May 2017. As such the Petitioner submits that again vide letter dated 8th December 2019, the Petitioner made a representation to the Respondent Nos. 2 to 4 and requested them to prepare and submit a proposal for approval to the Petitioners' services as Full Time teacher in terms of GR dated 17th May 2017.

(9) Mr. Rane, learned Counsel lastly submits that from the date of appointment of i.e. since 1st June 2017 the Petitioner is doing the work of Full Time Assistant Teacher. The posts on which the Petitioner is working is having workload of full time teacher even since prior to the year 2017.

(9.1) The Petitioner states that in-spite of all these things and even after fixing the workload, the Respondent No. 3 has not sent the proposal to the Respondent No. 2 for approving his service as Full Time Assistant teacher. The recitals in the Petition is at para 17 would reveal that the Petitioner was to retire on 31st March 2017 by superannuation. As such as on today the Petitioner must have been retired.

(9.2) Mr. Rane concludes his arguments restricting prayer to direct the Respondent Nos. 3 and 4 to submit a proposal to the Respondent No. 2 to approve the Petitioner's service w.e.f. 1st June 2017 as Full Time Assistant Teacher in Respondent No. 4-Night School in view of the GR dated 17th May 2017.

(10) The Petitioner also seek further direction to the Respondent No. 2 to consider the proposal and grant approval accordingly.

(11) We have heard Mr. Rane, learned Counsel for the Petitioner and Mr. Mali, learned Assistant Government Pleader for the Respondent-State. Respondent No. 2 is the authority to approve the appointment of the Petitioner on the post of Full Time Assistant Teacher in the Respondent No. 4 night school. The exercise to grant approval to such proposal is well guided by the GR dated 17th May 2017 relied upon by the Petitioner. Besides the said government resolution, the Respondent No. 2 may take assistance of such other government policy, if any to grant approval to Petitioner's services as prayed.

If needed, the Respondent No. 2 may recommend the proposal to the higher authorities. In such event, the higher authorities have to adjudicate the proposal and to direct the Respondent No. 2 to take the appropriate decision.

(12) However, in any event such exercise needs to be completed in a time frame manner considering that the Petitioner is already superannuated.

(13) In view of the above and the prayers made in the Writ Petition, we feel that the following relief would be moderate and just one.

(14) In view of this, we pass following order :-

::ORDER::

- A)** Writ Petition stands disposed of.
- B)** The Respondent Nos. 3 and 4 shall submit to the Respondent No. 2, a proposal for approving the services of the Petitioner w.e.f 1st June 2017 as Full Time Assistant Teacher in view of the GR dated 17th May 2017. The proposal shall be comprehensive and would be attached with all requisite documents and record.
- C)** The Respondent Nos. 3 and 4 shall complete this exercise within six weeks from today.

D) Upon receipt of such proposal the Respondent No. 2 shall adjudicate the proposal on its own merits considering the provisions of the GR dated 17th May 2017 within a period of eight weeks thereafter, if needed by adopting the procedure that we have recorded at para. No.11 above.

E) While doing so the Respondent No. 2 to 4 shall give an opportunity of hearing to the Petitioner to resolve/explain a query, if any.

F) In case the Respondent No. 2 negates the proposal the Petitioner shall be at liberty to assail the same with all contentions.

Digitally
signed by
TALLE
SHUBHAM
ASHOKRAO
Date:
2025.11.21
14:25:26
+0530

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]