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

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CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3871 OF 2021

Najhat Khaja Ansari changed
Name Najhat Irshad Ahmed Shaikh and Anr. ...Petitioners

versus

Administrative Officer,
Primary Education Board,
Solapur Municipal Corporation and Ors. ...Respondents

Mr. Ashok Tajane (through V. C.) a/w Mr. Balaji Shinde for the
Petitioners.

Mr. Vijay Killedar, for Respondent Nos. 1 and 2.

Mr. Dilip Bodake a/w Mr. Sharat Bhosale a/w Mr. Amar Dhumal a/w
Mohsin Khan for the Respondent No.3.

Mr. A. A. Naik, AGP for the State- Respondent No.4.

**CORAM : M.S. KARNIK &
SHARMILA U. DESHMUKH, JJ.**

DATE : 30th SEPTEMBER, 2025.

ORAL ORDER (Per M. S. Karnik, J.):

1. Heard Mr. Ashok Tajane for the Petitioners, Mr. Vijay Killedar for the Respondent Nos. 1 and 2, Mr. Dilip Bodake for the Respondent No.3 and Mr. A. A. Naik, AGP for the State-Respondent No.4.

2. The Petitioner No.1 is working as a Balwadi Teacher w.e.f. 1st April, 2002. As of today, the Petitioner No.1 has put in almost 23 years of service. So far as Petitioner No.2 is concerned, she was appointed as

a Balwadi Teacher on 8th June, 1996. As of today, the Petitioner No.2 has put in almost 29 years of service.

3. The Petitioners have completed their D. Ed. qualification in the year 1998 and 2013 respectively. The Petitioners seek absorption as Assistant Teachers in view of the order passed by this Court in Writ Petition No.2290 of 2000 dated 3rd May, 2000, in respect of other similarly situated teachers, which reads as under:

“The petitioners are working as Balwadi teachers in Urdu Medium. It seems that some of the teachers were absorbed by the Government in regular services vide order dated 29.05.1997. By the said order teachers who had completed 10 years of service were absorbed in regular Municipal service. In case similar drive for absorption is taken by the Government, petitioner’s case will be considered on its merits and they will be absorbed if found to be eligible for absorption under the scheme. Petition is disposed of.”

4. Learned Counsel for the Respondent No.3-Corporation submits that the Petitioners are not entitled to the benefit of absorption on completion of 10 years of service in view of the communication dated 15th January, 2001, addressed to the Municipal Corporation School Board by the Government of Maharashtra, indicating that the Balwadi Teachers who have put in more than 10 years of service, should not be appointed as Primary Teachers.

5. The Administrative Officer of Respondent No.1-Board, by a proposal dated 2nd January, 2015 addressed to the Secretary, Education and Sports Departments provided details of those Balwadi teachers who have been working for more than 10 years. The names of the Petitioners

is at serial Nos. 2 and 6 of the proposal dated 2nd January, 2015, which is at page No.19 of the paper book. In the proposal, it is stated that these Balwadi Teachers are D. Ed. by qualification. These Balwadi Teachers have made an application for they being appointed as Assistant Teachers in the Primary School. Moreover, the Primary Education Board and the Solapur Municipal Corporation had passed a resolution that the Balwadi Teachers should be posted as teachers in the Primary Municipal School. Reference is made to the letter dated 29th May, 1997 of the Education Department, wherein those Balwadi Teachers who have D. Ed. as the educational qualification and have completed 10 years of service should be absorbed as Assistant Teachers. Accordingly, it is stated that in the year 1998, 18 Balwadi Teachers were absorbed as Assistant Teachers in the Primary School. It is stated that even in view of the aforesaid order passed by this Court in Writ Petition No.2290 of 2000 dated 3rd May, 2000, the Balwadi Teachers who have completed 10 years of service were absorbed in regular municipal services. As of 2nd January, 2015, when the proposal was sent to the State Government, it was indicated that there were vacancies available for absorbing the Petitioners in the vacant posts. The Respondent No.1-Board, had therefore sought guidance from the Secretary, Education Department as to whether the Petitioners could be absorbed in the vacant posts.

6. We find that there is no response from the State Government to the communication /proposal dated 2nd January, 2015 addressed by the Respondent No.1-Board. It is evident from the material that in the past, those Balwadi Teachers who have put in more than 10 years of service and are duly qualified to be appointed as Assistant Teacher in the Primary School of the Corporation have been absorbed.

7. No doubt, learned Counsel for the Corporation pointed out that the State Government had, post 15th January, 2001, informed the Corporation that henceforth no Balwadi teachers who have completed 10 years of service, should be appointed as Assistant teachers in the Primary School.

8. We find that there is no policy/ scheme for absorption of Balwadi Teachers, who are working for long number of years, nor there has been any response of the State Government to the proposal made by the Respondent No.1 on 2nd January, 2015. This has resulted in a situation where the Petitioner No.1 who is working as Balwadi teacher from 1st April, 2002, has more than 23 years of service as Balwadi Teacher as of today; whereas, the Petitioner No.2 who was appointed as on 8th June, 1996 as a Balwadi teacher has almost 29 years of service to her credit as Balwadi Teacher.

9. We are conscious that there should be no back door entry in the matter of appointments. But the plight of these Petitioners who have

sincerely been discharging the duties as Balwadi Teachers compel us to adopt a holistic view. Taking work from the Petitioners without them getting the fruits for the period they have sincerely worked for so many years is nothing but unfair and arbitrary. This is a fit case where the Respondents ought to take some affirmative action. The Respondent No.1 Board has done well in recommending the case of the Petitioners to the Education Department for absorbing the Petitioners as Assistant Teachers in Primary School of the Corporation. The Education Department ought to have responded forthwith positively and preferably favourably.

10. In the present case, the Administrative Officer of the Municipal Corporation Primary School Board Solapur, had submitted a proposal dated 2nd January, 2015, which was not responded to at all by the State Government. We find this to be a fit case, where the proposal dated 2nd January, 2015 which is in the interest of justice, deserves to be accepted. The said proposal is fair and reasonable, considering that at this distance of time, the Petitioners have put in more than 23 and 29 years of service as Balwadi Teachers.

11. In our opinion, to deprive the Petitioners the benefit of absorption in municipal service, especially when the Municipal Corporation is ready to absorb them in the Municipal services as Assistant Teacher of Primary school, would be unfair. In the past

Balwadi teachers have been absorbed as Assistant Teachers in the Primary School.

12. We are allowing this Petition in the peculiar facts and circumstances of this case. The Municipal Corporation is directed to absorb the Petitioners in the vacant posts of Assistant Teacher in any of the Primary School of the Municipal Corporation. If no vacant post is available, Petitioners be absorbed as and when the vacancy arises.

13. Learned Counsel for the Municipal School Board submits that there is need for more Anganwadis in the district of Solapur Municipal Corporation. The proposal dated 19th March, 2021 at page No.65 of the paper book has been sent by the Commissioner of Municipal Corporation to the Commissioner, Integrated Child Development Service. The proposal is to convert the Balwadis into Anganwadis, so that Balwadi Sevikas will get the benefit which Anganwadi Sevikas are entitled to, and which is more beneficial and commensurate to the work done by Anganwadi Sevikas. Learned Counsel for the Petitioners submitted that this will go a long way in removing the disparities between such Sevikas. We appreciate this fair stance of the learned Counsel.

14. The Commissioner, Integrated Child Development Service, is therefore requested to consider the proposal dated 19th March, 2021 at page No.65 of the paper book pragmatically, as expeditiously as possible

and in any case within a period of six months from today.

15. The Petitioners be given a reasonable time to acquire the requisite qualifications as per the Right to Education Act (RTE) of 2009.

16. The petition is allowed in the aforesaid terms and stands disposed of.

[SHARMILA U. DESHMUKH, J.]

[M.S. KARNIK, J.]