

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10038 OF 2022

Yogesh Baburao Mohite

... Petitioner

Versus

The State of Maharashtra And Ors.

... Respondents

Mr. Prashant Bhavake, for the Petitioner.

Mr. V. M. Mali, A.G.P. for the Respondent-State.

Adv. Utkarsha Desai, for Respondent Nos. 6 and 7.

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**: M. S. Karnik &
Sharmila U. Deshmukh, JJ.**

Date

: 10th October, 2025.

ORDER (Per : Sharmila U. Deshmukh, J.)

1. Rule. Rule made returnable forthwith and taken up for final disposal with consent of the parties.
2. The Petition challenges the Order dated 26th August, 2021 passed by the Respondent No. 4 – the Deputy Director of Education rejecting the proposal seeking individual approval to the up-gradation of the Petitioner from part time post of Assistant Teacher to full time post of Assistant Teacher at Respondent No. 6-College.

3. The Petitioner has acquired MA B.Ed. B.P. E.d. qualification and is eligible to teach geography and physical education subjects. On 2nd June, 2017 and 4th June, 2017 the Respondent No. 5-Educational Institution issued advertisement in two daily newspapers inviting application for appointment in part time post of Shikshan Sevak for geography subject. Being eligible, the Petitioner applied for the said post and after following the required procedure the Respondent No. 5 issued appointment order dated 8th December, 2017. The Petitioner's appointment came to be duly approved by the Respondent No. 4 vide order dated 29th June, 2019 while sanctioning staff schedule for the academic year of 2017-18, 2018-19 and 2019-20. The appointment of the Petitioner was approved for the academic year 2020-21 vide order dated 28th January, 2021 and the salary payable to the Petitioner was released. The Petitioner was also granted Shalarth ID by order dated 30th August, 2019.

4. Upon successful completion of the probationary period the Respondent No. 5-Educational Institution vide order dated 15th December, 2020 confirmed the services of the Petitioner in regular pay scale.

5. It is submitted that due to retirement of full time Assistant Teacher, who was appointed from SC category, by superannuation on 31st December, 2020, the post of full time Assistant Teacher became vacant

from SC category. As per available workload the said post was required to be filled up for geography subject and as per roster post for SC category was available in Respondent No. 6-College.

6. The Respondent No. 5-Educational Institution passed resolution on 31st December, 2020 and resolved to upgrade the services of the Petitioner from part time post to full time post by order dated 1st January, 2021. The resolution was put into effect.

7. The proposal came to be submitted on 4th August, 2021 seeking approval to the up gradation of the Petitioner which has been rejected by the impugned order.

8. Mr. Bhavake, learned Counsel appearing for the Petitioner submits that the proposal came to be rejected on the solitary ground of non compliance with the Government Resolution of 23rd June, 2017 which provides for recruitment of teacher through Pavitra Portal. He submits that the Respondent No. 4 failed to notice that the Petitioner was already working on part time aided post of Assistant Teacher from 8th December, 2017 and it is only by way of up-gradation that the Petitioner came to be appointed which is also pursuant to the Government Resolution dated 10th June, 2005. He submits that as the up-gradation of the Petitioner is not fresh appointment, the Government Resolution dated 23rd June, 2017 is inapplicable.

9. Learned AGP, would defend the impugned order and would submit that as per the Government Resolution dated 23rd June, 2017 appointments were required to be made through Pavitra Portal and in the present case as there is non compliance with the Government Resolution, the impugned order has been rightly passed.

10. It is not in dispute that the Petitioner was appointed on 8th December, 2017 against clear vacant aided part time post of Shikshan Sevak at Respondent No. 6-Junior College. The appointment of the Petitioner on the part time aided post was duly approved by the Respondent No. 4 and the salary was released to the Petitioner. Further the Petitioner was also granted Shalarth ID by order dated 30th August, 2019. Subsequently upon completion of the probationary period the services of the Petitioner came to be confirmed in regular pay scale. As a clear vacancy arose due to retirement of an Assistant Teacher by superannuation, by following Government Resolution of 10th June, 2005 the Petitioner came to be upgraded from part time post to fully aided full time post of Assistant Teacher. The impugned order does not list any deficiencies in the appointment of the Petitioner on the part time post and the only reason for declining to grant approval to the up-gradation is the Government Resolution of 23rd June, 2017. The applicability of the Government Resolution of 10th June, 2005 which provides for up-

gradation from part time post to vacant fully aided full time post is not disputed and does not form a ground for declining to grant approval. The upgradation of the Petitioner to the fully aided full time post is thus in conformity with the government resolution.

11. The Respondent No. 4 rejected the proposal on the solitary ground that the Petitioner's proposal for approval was received in the year 2021 after the introduction of the Pavitra Portal mechanism by Government Resolution dated 23rd June, 2017. The said reasoning is clearly unsustainable as the same would apply to the fresh recruitment process and not to up-gradation. It is also well settled that though the Government Resolution of 2017, introduced the procedure of recruitment through the Pavitra Portal, till atleast June-2024 the Pavitra Portal itself was non functioning. On account of both the reasons as discussed above, the impugned order is clearly unsustainable and is required to be quashed and set aside.

12. Resultantly, the Writ Petition succeeds.

13. The impugned order dated 26th August, 2021 passed by the Respondent No. 4-Deputy Director of Education is hereby quashed and set aside.

14. The Respondent No. 4 is directed to grant the approval for up-gradation of Petitioner in full time post of Assistant Teacher with effect

from 1st January, 2021, within a period of six weeks and accordingly release the salary payable to the Petitioner along with arrears within a period of 8 weeks thereafter.

15. Rule is made absolute in the above terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]