

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11532 OF 2025

Ms. Priya Vishvas Kamble @	]	
Mrs. Priya Anandrao Kamble.	]	...Petitioner.
<u>Versus</u>		
1. The State of Maharashtra.	]	
Through The Secretary,	]	
School Education and	]	
Sports Department, Mumbai.	]	
2. The Accountant General,	]	
State of Maharashtra, Mumbai.	]	
3. The Dy. Director of Education,	]	
Kolhapur Region, Kolhapur.	]	
4. The Education Officer (Secondary)	]	
Zilla Parishad, Kolhapur.	]	
5. The President/ Secretary,	]	
Rayat Shikshan Sanstha, Satara.	]	
6. The Head Master,	]	
Malkapur High School Malkapur,	]	
Tal. Shahuwadi, Dist, Kolhapur.	]	...Respondents.

Mr. Satyajeet A. Rajeshirke and Mr. Rahul S. Rane for the Petitioner.
Mr. R. P. Kadam, B Panel counsel for the Respondent-State.

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

Date : December 18, 2025.

Oral Order [Per Ajit B. Kadethankar, J.] :

Subject Matter : Petitioner claims to be governed by the Old Pension

Scheme [for short **"OPS"**]. Contending that she is covered by various pronouncements made by this Court, the Petitioner contends that the respondent authorities are required to be directed to apply Old Pension Scheme to her case.

1. Respective arguments:-

1.1. Petitioner contends that vide order dated 7th February 1994, Respondent No.5-school management appointed her as a part-time librarian on 100% aided post in Mahatma Gandhi High School, Ashta.

Mr. Rajeshirke, learned Counsel for the Petitioner submits that on 20th October 1994, the Education Officer (Secondary), Zilla Parishad, Sangli granted approval to the appointment of Petitioner.

He would submit that in the meantime, Petitioner was transferred at various schools run by Respondent No.5-school management which schools were receiving 100% grant-in-aid.

On 25th April 2007, the school management upgraded Petitioner's services as full-time librarian and transferred her to Karmaveer Bhaurao Patil High School, Bagani on the full-time post receiving 100% grant-in-aid.

In March 2008, the Petitioner's services as full-time librarian were approved by the Education Officer.

1.2. Mr. Rajeshirke, learned Counsel ventilates petitioner's grievance that in view of the fact that Petitioner was appointed prior to

1st November 2005 on a post which was in a fully aided school, the Petitioner has not been granted coverage of Old Pension Scheme.

1.3. Mr. Rajeshirke would submit that on 14th July 2025, the Petitioner made a representation to the Education Officer, Zilla Parishad, Kolhapur to grant her the benefits of Old pension cum Gratuity Scheme taking into consideration her initial date of appointment and the fact that post on which she was appointed was in a fully aided school. He would further submit that said representation is not yet decided by the Education Officer, Zilla Parishad, Kolhapur and hence necessary directions are required to be issued to the said authority.

1.4 Mr. Kadam, learned Assistant Government Pleader would submit that parameters to apply the Old Pension Scheme are set out by various judgments rendered by this Court, and Petitioner's claim needs to be decided checking scrupulously the facts of her proposal. He would fairly submit that if at all Petitioner's case stands on the test imposed by this Court, there would be no hindrance by the concerned authority to apply Old Pension Scheme to the Petitioner.

2. Consideration and Anaylsis :

2.1. We have heard Mr. Rajeshirke, learned Counsel for the Petitioner and Mr. R. P. Kadam, learned AGP.

2.2. While considering case of a similarly situated employee, this Court in Civil Writ Petition No.8621 of 2025, in the case of ***Khandu Bhanudas Suryawanshi v. State of Maharashtra***, decided on 6th November 2025, has observed as follows :

“7 We are in full agreement with the view taken by this Court in the cited cases (supra). We agree with learned AGP's argument that case of each individual employee seeking benefit of OPS needs to be meticulously examined by the concerned authority. This is because the entitlement of employee to be governed by OPS also depends upon some other factors including continuity of his service, status of the Institution as Aided/non-aided in the light of the law laid down by this Court in the cases cited supra.”

2.3. In ***Khandu Bhanudas Suryawanshi v. State of Maharashtra*** (supra) we have referred to Full Bench decision of this Court in ***Deshmukh Dilipkumar Bhagwan v. State of Maharashtra [2019 (3) Mh.L.J. 903]***. So also, we have referred to the judgment delivered by this Court at Principal Seat-Mumbai on 27th February 2025 in Writ Petition No. 2345 of 2014 and connected matters, namely, Maharashtra Rajya Madhyamik Va Uchha Madhyamik Shala Kruti Samittee v. The State of Maharashtra [known as राज्य माध्यमिक व उच्च माध्यमिक शाला कृती समिती case]. We have also referred to the decision of this Court in the case of ***Nilesh Namdev Gurav v. State of Maharashtra***, namely, Writ Petition No.4748 of 2019 with connected matters decided on 1st October 2021.

2.4. In this view of the matter, we are of the view that case of the Petitioner needs to be meticulously examined by the Education Officer. This is because entitlement of Petitioner to be governed by the Old Pension Scheme depends upon various factors including nature/ status of the school in which the Petitioner was initially appointed, the date of appointment, continuity of service, status of the Institution as Aided/non-aided in the light of law laid down by this Court in the cases cited supra.

3. In the light of above, we dispose of this writ petition with following directions :

- i. The Education Officer (Secondary), Zilla Parishad, Kolhapur is directed to consider the representation dated 14th July 2025 filed by the Petitioner on its own merits. If needed, the Education Officer shall call upon the School authority and the School Management to employ a proper proposal or such record for treating the Petitioner entitled to be governed by the Old Pension Scheme.
- ii. The Education Officer (Secondary), Zilla Parishad, Kolhapur shall give an opportunity of hearing to the Petitioner, if there is any deficiency in the proposal.
- iii. If the Education Officer is of the opinion that the decision on entitlement of the Old Pension Scheme is to be taken by the Deputy Director of Education, he

shall immediately move to the said authority for further process. Neither the Education Officer (Secondary) nor the Deputy Director of Education shall keep the claim/ proposal pending for want of any authority. If at all the Education Officer (Secondary) is of the opinion that power to decide the claim rests with the Deputy Director of Education or *vis-a-versa*, both the authorities shall transmit the proposal/claim between themselves expeditiously. In any event, the proposal/claim shall be decided by the Education Officer (Secondary) or the Deputy Director of Education, as the case may be, within six weeks of its receipt.

- iv. The Education Officer (Secondary) or Deputy Director of Education, as the case may be, shall satisfy himself as to whether Petitioner's initial date of appointment is prior to 1st November 2005 in the Institution that was fully aided prior to 1st November 2005 in view of the Full Bench decision of this Court in ***Deshmukh Dilipkumar Bhagwan v. State of Maharashtra*** (supra) and the Division Bench judgment of this Court in ***Nilesh Namdev Gurav v. State of Maharashtra*** (supra). The said Authority shall also consider whether services of Petitioner could be held continuous service from the date of initial appointment, i.e. if there is any gap in service, whether such gap could be condoned as per the relevant statutory provisions.

- v. In the event, Petitioner is found deserving to the benefit of Old Pension Scheme, the Respondent Authorities shall extend the benefits of Old Pension Scheme to the Petitioner and shall not deduct any amount from the salary of Petitioner by applying DCPS. In the event, any amount has already been deducted by applying DCPS, such amount shall be refunded to the Petitioner within a period of four weeks from the date of decision on such proposal.
- vi. Respondent Authorities shall allot the Gratuity Provident Fund Account to the Petitioner and thereafter permit the concerned educational institution to deduct the amount of monthly contribution from the salary of Petitioner and deposit the same in the said GPF account of Petitioner.
- vii. If the authority i.e. the Education Officer (Secondary) or the Deputy Director of Education, as the case may be turns down Petitioner's proposal, such order would assign precise reasons for rejection. The Authority shall clearly indicate the reasons for refusal of OPS to the Petitioner, if the proposal is negated. Petitioner is at liberty under such circumstances to take appropriate legal recourse.
- viii. The observations made by this Court in Paragraph Nos.13 to 18 in the judgment dated 1st October 2021 in **Nilesh Gurav's** case (supra), would be applicable to the Petitioner's case also.

- ix. We have not observed anything on the merits of entitlement of Petitioner for the purpose of being governed by Old Pension Scheme.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]