

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12494 OF 2025

- | | | |
|----|---------------------------------------|------------------------|
| 1. | Smt. Varsha Kamlesh Parab, |] |
| | (Nee: Varsha Vishwanath Chavan), |] |
| | Age: 38 Years, Occupation: Service, |] |
| | R/o. A/P. Khotale, Taluka: Malvan, |] |
| | District: Sindhudurg. |] |
| | |] |
| 2. | Kasal Panchkroshi Shikshan Sanstha, |] |
| | Kasal, Tal. Kudal, Dist. Sindhudurg, |] |
| | Through its President/ Secretary. |] |
| | |] |
| 3. | Sou. Suhasini Shridhar Parab High |] |
| | School, Khotale, A/P. Khotale, |] |
| | Taluka: Malvan, District: Sindhudurg, |] |
| | Through its Head Master. |] |
| | | ... Petitioners |

Versus

- | | | |
|----|-----------------------------------|---|
| 1. | The State of Maharashtra |] |
| | Through the Secretary, |] |
| | School Education & Sports |] |
| | Department, Mantralaya, |] |
| | Mumbai – 400 032. |] |
| | |] |
| 2. | The Commissioner of Education, |] |
| | School Education Department, |] |
| | Maharashtra State, Pune. |] |
| | |] |
| 3. | The Director of Education, |] |
| | (Secondary and Higher Secondary), |] |
| | Maharashtra State, Pune-1. |] |

- | | | |
|----|-------------------------------------|---|
| 4. | The Deputy Director of Education, |] |
| | Kolhapur Region, Kolhapur, |] |
| | Having office at, Hatti Mahal, |] |
| | Ganji Galli, Somwar Peth, Kolhapur. |] |
| | |] |
| 5. | The Education Officer (Secondary), |] |
| | Zilla Parishad, Sindhudurg, |] |
| | Having Office at, Zilla Parishad |] |
| | Building, Sindhudurnagari-Oros, |] |
| | Tal. Kudal, Dist. Sindhudurg. |] |
- ... Respondents

Mr. Prashant S. Bhavake for Petitioners.
Ms. S. N. Deshmukh, A.G.P. for Respondent- State.

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

Date : 12th December, 2025.

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

1. Subject Matter:

. The Petitioner No.1 is duly appointed by the Petitioner No.2- Educational Institution as " Junior Clerk" (Shikshan Sevak) at the Petitioner No.3-School run and administered by Petitioner No.2.

1.1 Services of the Petitioner No.1 are also duly approved by the Competent Authority i.e. Respondent No.5- Education Officer

(Secondary) Zilla Parishad, Sindhudurg (hereinafter referred as 'Education Officer').

1.2 The grievance of the Petitioners in the Writ Petition is that despite having granted approval to Petitioner No.1's appointment, the Education Officer has foisted a liability on the School Management to pay the honorarium/ salary to the Petitioner No.1 from the of date of appointment till the date of approval.

1.3 As such, the Petitioners are aggrieved by the condition imposed by the Education Officer while granting the approval thereby not granting salary from the grant-in-aid w. e. f. the date of appointment.

1.4 Considering the nature of prayers made in the Writ Petition, we have finally heard the parties by their consent.

1.5 Rule. Rule made returnable forthwith.

2. Brief Facts of the Case:

2.1 Undisputedly, the Petitioner No.3 is a fully aided school run and administered by the Petitioner No.2.

2.2 Consequent to voluntary retirement of the then working Junior Clerk namely Shri S. M. Parab, a vacancy for the post of Junior Clerk was created in the Petitioner No.3- School.

2.3 As per record, the vacancy belonged to the General Category.

2.4 In view of Section 5(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, the Petitioner No.2- Management approached the Respondent No.5 - Education Officer, who ascertained that no suitable surplus Junior Clerk was available for absorption on the said vacant post.

2.5 Petitioners contend that even after filing an application dated 16th October, 2017 seeking permission to issue advertisement to fill up the subject matter post, the Education Officer neither released any information about availability of any surplus candidate nor accorded any permission for issuing the advertisement.

2.6 As such, the School Management was constrained to publish an advertisement on 27th October, 2017 in Daily Newspaper Sindhudurg Samachar.

2.7 The Petitioner No.1, who was desirous to get an employment applied pursuant to the advertisement dated 27th October, 2017. Conclusively, after completion of all the formalities the School Management appointed the Petitioner No.1 as Junior Clerk (Shikshan Sevak) at Petitioner No.3- School w.e.f. 1st November, 2017 under the 'Shikshan Sevak Scheme'.

2.8 It is not disputed that the Petitioner No.1 has been working on the subject matter post continuously and has also been made a

permanent employee.

2.9 It is a matter of fact that the School Management moved a proposal to the Education Officer to seek approval to the Petitioner No.1's appointment. However, the Education Officer turned down the proposal, this constrained the Petitioner No.1 to file Writ Petition No.5043 of 2023 in this Court.

2.10 Upon hearing the parties this Court, vide Order dated 27th August, 2024 disposed of the Writ Petition thereby directing the Education Officer to decide the approval proposal as per the procedure explained in the said Order.

3. Accordingly, a fresh proposal was filed to the Education Officer for approval of Petitioner No.1's appointment.

4. On 11th October, 2024, the Education Officer granted approval to the Petitioner No.1's service on the subject matter post for the probationary period of three years w.e.f. 1st November, 2017.

5. The Respondent No.4 - the Deputy Director of Education, Kolhapur, showed his permission to include the name of the Petitioner No.1 in the Shalarth System. However, the Education Officer issued another order dated 27th February, 2025, thereby granting approval to Petitioner No.1's service on pay scale 'S-6'.

6. The Petitioner No.1 has two grievances in the Writ Petition,

which are as follows :

(i) In the approval dated 11th October, 2024 due to condition No.8, the Education Officer made the School Management responsible to pay the honorarium for the period of time from the date 1st November, 2017 to 31st October, 2020.

(ii) In the approval dated 27th February, 2025, due to condition No.6, the Education Officer made the School Management liable for payment of honorarium/ salary for the period of time from date 1st November, 2017 to 26th August, 2024.

7. Argument of the Learned Counsel for the Petitioners:

7.1 Mr. Prashant Bhavake, learned Counsel vehemently submits that once the approval is granted by the Competent Authority from the date of appointment on the subject matter post, the Education Officer is not justified in imposing the liability of honorarium/ salary on the Management for any period of time from date of appointment till 26th August, 2024.

7.2 He would further submit that the reasons recorded by the Education Officer at clause (8) in approval dated 11th October, 2024 and at clause (6) of approval dated 27th February, 2025, are absolutely unjustified and absurd.

7.3 As such, Mr. Prashant Bhavake, learned Counsel for the Petitioners would submit to direct the Education Officer and the Deputy Director of Education to release the honorarium and the salary of Petitioner No.1 for the respective period from the grant-in-aid of the Petitioner No.3 – School.

8. Argument of Learned A.G.P.:

8.1 Mrs. S. N. Deshmukh, learned A.G.P. would, however, support the conditions imposed by the Education Officer.

8.2 She would further submit that the conditions mentioned in the impugned orders are imposed by the Education Officer.

8.3 Taking into consideration the prevailing condition at the relevant time, the School Management is under obligation to satisfy the conditions.

9. Discussion and Consideration:

9.1 We have thoroughly heard both the learned Counsels for the respective parties.

9.2 It is absolutely no more in dispute that the Petitioner No.1 was appointed through proper procedure.

9.3 It is only upon finding that the Petitioner No.1 is appointed through proper channel by completing each formality, and her recruitment as also the appointment order was perfectly within the four corners of law, the Education Officer granted the

approvals.

9.4 A fact which can not be overlooked is that the Petitioner No.1 was appointed on the subject matter post which has fallen vacant due to voluntary retirement of the earlier Junior Clerk.

9.5 As such, it was not a creation of any new post, therefore, the status of the subject matter post was an approved post as per the then prevailing staffing pattern.

10. We accept the argument of Mr. Bhavake, learned Counsel for the Petitioners that in the given facts and circumstances, where the subject matter post was vacant due to voluntary retirement of earlier Employee, new staffing pattern or the imposition of any condition/ ban would not be applicable to the subject matter post.

11. Furthermore, we do not comprehend with the logic applied by the Education Officer thereby bifurcating the responsibility of honorarium/ salary for the given periods and for the given reasons.

12. Once the approval is granted from the date of appointment, the Education Officer and the Deputy Director of Education are under obligation to pay the honorarium/ salary to the Petitioner No.1 from the grant-in-aid of the Petitioner No.3- School.

13. Hence, for the reasons recorded above, we have no

hesitation to allow this Writ Petition in following terms.

14. Hence, we pass the following Order :

::ORDER::

- (i)** Writ Petition stands allowed;
- (ii)** The Condition Clause No.8 in the approval dated 11th October, 2024 and Condition Clause No.6 in approval dated 27th February, 2025 stand struck down.
- (iii)** The Respondent No. 5 - the Education Officer (Secondary), Zilla Parishad, Sindhudurg and the Respondent No.4 - the Deputy Director of Education, Kolhapur Shall release the honorarium and salary respectively, of the Petitioner No.1 from the date of her appointment i.e. w.e.f. 1st November, 2017 onwards.
- (iv)** This exercise shall be done within a period of eight weeks from the date of receipt of copy of this order.
- (v)** Rule made absolute in above terms.
- (vi)** Writ Petition disposed of.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]