

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12722 OF 2015

Shri Sarjerao Ramdas Chougule

... Petitioner

Versus

State of Maharashtra And Ors

... Respondents

*Mr. Ramdas Shelke a/w Adv. Vaishnavi Shelake, Mr. Swapnil Lokare and Mr. Nikhil Dharmadhikari for the Petitioner.
Mr. S. B. Kalel, AGP for the Respondent Nos. 1 and 2-State.
Mr. I. M. Khairdi for the Respondent Nos. 3 and 4.*

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.
Date : November 28, 2025.**

P. C. :

1. Heard learned Counsel for the Petitioner.
2. The Petitioner prays for the following substantial reliefs in this Petition:

“(b) The Hon’ble court be pleased to issue writ of mandamus or any other appropriate writ, direction or order directing the Education Officer (Secondary), Zilla Parishad, Solapur to declare the petitioner as surplus teacher and absorb him in some other school.

(c) Alternatively and without prejudice to the above mentioned prayer, the Hon’ble Court be pleased to direct the respondent Education Officer to release salary grant in respect of the petitioner’s salary till he is absorbed in some other school and allow him to continue on the pay role of the respondent school till that date.”

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3. Learned Counsel for the Petitioner submitted that the Respondents erred in not declaring the Petitioner as a surplus teacher, and that such refusal is based on an entirely erroneous premise arising solely out of disputes between two rival groups within the Management. *Prima facie*, the contention of learned Counsel for the Petitioner appears to have some substance.

4. The learned Counsel further submitted that the Respondents have not permitted the Petitioner to sign the muster roll or to resume duties since the year 2012.

5. Having regard to the reliefs sought, this Court would have otherwise examined the Petitioner's contentions on merits. However, it must be noted in all fairness to the Petitioner, who has annexed a copy of the order dated 26th November 2013 passed by the School Tribunal, Pune Region, Solapur, (hereinafter "***the Tribunal***") which is at page no. 50 of the paper-book, that the Petitioner had earlier preferred an appeal before the Tribunal seeking the very same reliefs as those sought in the present Petition.

6. Learned Counsel for the Petitioner submits that the order passed by the Tribunal is without jurisdiction, and therefore, the present Petition seeking identical reliefs is maintainable.

7. We have perused the order dated 26th November 2013 passed by the Tribunal. The Tribunal framed and considered the following issues:

Points	Findings
1. Whether the appellant was legally appointed as Shikshan Sevak ?	In the negative
2. Whether the appellant is entitled for absorption in other school with continuity of service ?	In the negative
3. Whether the appellant is entitled for B.Ed. pay scale as prayed?	In the negative

8. For the reasons recorded in the order passed by the Tribunal, the Petitioner's claim was rejected on merits. The Tribunal however held the issue "*whether the Petitioner was entitled to the B.Ed. pay scale*" did not fall within its jurisdiction.

9. Thus, for the very same reliefs that were sought before the School Tribunal, the Petitioner has approached this Court by way of a Writ Petition under Article 226 of the Constitution of India. Although learned Counsel for the Petitioner contended that the order of the Tribunal is without jurisdiction, we find that it was the Petitioner himself who invoked the Tribunal's jurisdiction, pursuant to which the appeal was entertained and decided on merits. If the Petitioner is aggrieved by the order passed by the Tribunal, it is open to him to avail appropriate remedies against that order.

10. In our view, therefore, it is not open for this Court to entertain the present Petition seeking the very same reliefs which have already been declined by the Tribunal. The order of the Tribunal is not under

challenge. The liberty of the Petitioner to challenge the Tribunal's order is however, kept open.

11. It is made clear that we have not expressed any opinion on the merits of the findings recorded by the Tribunal. We also observe that the Petitioner has *bonafidely* prosecuted the present Petition. The time spent in doing so may be sympathetically considered in the event the Petitioner challenges the Tribunal's order, if the question of delay arises. Subject to the above, the Writ Petition stands rejected.

12. It is further made clear that we have not made any observations on the merits of the contentions raised in this Petition. All contentions of the parties are kept open.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]