

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2453 OF 2022
WITH
INTERIM APPLICATION NO. 15298 OF 2024

Prakash Babasaheb Kore ... Petitioner/Applicant

Versus

The State of Maharashtra & Ors. ... Respondents

Mr. Laxman S. Deshmukh for the Petitioner/Applicant.

Mr. VM. Mali, A.G.P for the Respondent Nos. 1 & 2-State.

Mr. Sanadiip S. Mutaalik a/w. Mr. VR. Mali for Respondent Nos.3 & 4.

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

Date : 22nd September 2025.

P. C. :

1. Heard Mr. Deshmukh, learned counsel for the Petitioner, Mr. Mali, learned A.G.P for the Respondent Nos.1 & 2-State and Mr. Mutaalik, learned counsel for the Respondent Nos.3 & 4.

2. The Petitioner is challenging the Advertisement dated 3rd March 2019 issued by the Respondent No.3-Management for the post of

This Order is corrected/modified in pursuance of Speaking to the Minutes Order dated 29th September 2025.

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Assistant Teacher in Geography subject. The Petitioner seeks a direction against the Respondent No. 3-Management to issue an appointment order as Full Time Teacher in favour of the Petitioner with all consequential benefits with effect from 1st July 2017.

3. The Petitioner pleads that he belongs to the Other Backward Classes (O.B.C.) in the State of Maharashtra. The Petitioner is eligible for being appointed to the post of Assistant Teacher in Private School having Higher Secondary Classes over which there is no dispute. The Respondent No.3-Management appointed the Petitioner to the post of Part Time Teacher in the Respondent No.4-School on 15th June 2009 for Geography subject. The Petitioner's appointment as Part Time Teacher continued from time to time till July 2017. The appointment of the Petitioner as Part Time Teacher was approved by the Respondent No.2-Deputy Director of Education on 18th February 2010 and thereafter from time to time and for the year 2018-2019 as well.

4. It is the case of the Petitioner that the Petitioner is in fact working as Full Time Teacher consequent upon the retirement of the incumbent in the year 2017.

5. It is the Petitioner's case that the Respondent No.3-Management failed to submit the proposal on an erroneous assumption that there was a ban to fill up the post. The Petitioner belongs to a reserved category as

‘O.B.C.’ and therefore the ban was not applicable in respect of the post belonging to the reserved category and Mathematics, Science and English Teacher.

6. Learned A.G.P fairly submits that the ban was not applicable for the reserved post and in respect of aforesaid subjects.

7. In our opinion, therefore the Respondent No.3-Management should have submitted the proposal for approval of the Petitioner as a Full Time Teacher. According to the Government Resolution dated 31st January 2001 such up-gradation from Part Time Teacher to Full Time Teacher is permissible, if there is vacancy available in the same subject where the Petitioner is working as Part Time Teacher.

8. Learned counsel for the Respondent No.3-Management submits that for the year 2017-2018 there was some other teachers working on the full time basis. Be that as it may, it is for the Management to have forwarded the proposal, as the Petitioner was already working as Part Time Teacher, consequent upon the vacancy being available for Full Time Teacher in the same subject.

9. Learned counsel for the Respondent Nos.3 & 4, on instructions, submits that the proposal for approval of the Petitioner’s appointment as Full Time Teacher in the Respondent No.4-School will be submitted within a period of four weeks from today. The said statement is accepted

as an undertaking given to this Court. Within a period of eight weeks from the receipt of the proposal, the Respondent No.2-Deputy Director of Education to consider the proposal for approval of up-gradation of the Petitioner as Assistant Teacher on Full Time basis. If there are any deficiencies in the proposal, the Deputy Director of Education to give an opportunity to the Respondent Nos.3 & 4 to cure the deficiencies, which the Respondent Nos.3 & 4 shall forthwith comply.

10. In case the approval is granted, the Petitioner be issued Shalarth I.D. immediately. In that case, consequential arrears be paid within a period of four weeks. The impugned Advertisement so far as Geography subject is concerned, is consequently set-aside.

11. Writ Petition is allowed in the aforesaid terms.

12. In view of disposal of Writ Petition, Interim Application No. 15298 of 2024 pending therein does not survive and is accordingly disposed off.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]

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