

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 257 OF 2025

Sandip Keda Garud.
Aged 43 Years, Occ. Nil,
R/o. Survey No. 330, Ekta Nagar,
Gawali Wada, Near Shriramnagar
Society Office, Malegaon,
Tal. Malegaon, Dist. Nashik.

... Petitioner.

V/s.

- 1) The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai - 400 032.
- 2) The Deputy Director of Education,
Nashik Region, Nashik.
- 3) The Education Officer [Secondary],
Zilla Parishad, Nashik.
- 4) Mahatma Jyotiba Phule Shikshan
Sanstha, Sangameshwar,
Tal. Malegaon, Dist. Nashik,
Through its President /Secretary.
- 5) Janata Vidyalay, Vajirkhede,
Tal. Malegaon, Dist. Nashik,
Through its Head Master.

... Respondents.

Mr. Narendra V. Bandiwadekar, Senior Advocate a/w. Mr. Vinayak R. Kumbhar, Mr. Rajendra B. Khaire i/b. Ashwini N. Bandiwadekar, Advocate for Petitioner.

Mr. P.P. Kakade, Addl. G.P. a/w. Ms. Nisha Mehra, AGP for Respondent/State.

Mrs. Gauratna Kale i/b. Mr. Sachin Dhakephalkar, Advocate for Respondent Nos. 4 and 5.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 6th NOVEMBER, 2025

ORAL JUDGMENT : (*Per Ravindra V. Ghuge, J*)

1. The learned Advocate Mrs. Kale appears on instructions on behalf of the Respondent Nos. 4 and 5. She submits that though this Petition may be decided today, leave to file vakalanama within one week be granted. The request is accepted.

2. Rule. Learned Additional Government Pleader and the learned Advocates waive service of notice on rule on behalf of all the Respondents. This Petition is heard finally by consent of the parties. The Petitioner has put forth prayer clause (b), (c) and (d) as under :

“b] By a suitable writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the impugned order dated 25.5.2023 passed by the Respondent No. 3, and accordingly the Respondent No. 3 may be directed to grant approval to the appointment of the Petitioner as a Peon in the Respondent No. 5 School w.e.f. 31.8.2015 on monthly honorarium for a period of 3 years, and to release the grant-in-aid for payment of said honorarium to the Petitioner for 3 years, with all arrears.

c] By a suitable writ, order or direction, this Hon'ble

Court may be pleased to direct the Respondent No. 3 to grant further approval to the Petitioner as a Peon at the Respondent No. 5 School on regular basis and in pay scale w.e.f. 31.8.2018 and to release the grant-in-aid for payment of salary in the pay scale / Pay Matrix from the said date, with all arrears.

d] By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 2 to grant permission to enter the name of the Petitioner in Shalartha Pranali and to allot him Shalartha I.D. as a Peon at the Respondent No. 5 School, with all consequential benefits.”

3. The Petitioner was born on 01/06/1980. He belongs to the scheduled caste category. He has acquired education upto the H.S.C. Level. Respondent No. 5 School is a fully aided Secondary School. The Father of the Petitioner namely, Keda Garud was working as permanent and approved Junior Clerk with Respondent No. 5 School and was receiving monthly salary from the salary grants extended to the School by the Government.

4. The Petitioner's father died in harness on 14/7/2011, leaving behind a widow, 5 daughters and 2 sons. The other family members extended no objection and the Petitioner was appointed as a peon in the Respondent No. 5 School on compassionate basis on 31/8/2015. He was accommodated on the said permanent post as a peon

which was vacant due to the retirement of a permanent employee.

5. The School forwarded the proposal dated 01/9/2015 for seeking approval from Respondent No. 3. The said proposal was received by the Respondent No. 3 on 04/12/2017. By the impugned order dated 25/5/2023, the proposal was rejected.

6. We have perused the Government Resolution dated 31/12/2002 issued by the School and Education Department, Government of Maharashtra, Mantralaya, Mumbai. The said G.R. prescribes that an eligible legal heir can be appointed on compassionate basis on the post as may be available considering the qualifications of the candidate. The said G.R. also prescribes that if a candidate has higher qualification and a commensurate post for which such requisite qualifications are required, is not available, candidate can be appointed on any lower post and, as and when the higher post becomes vacant to which such candidate would be eligible, he would have a right to be absorbed on the said higher post for which he has requisite qualification.

7. A communication dated 14/9/2022 issued by the Desk

Officer, State of Maharashtra, School Education and Sports Department, all the Education Inspectors in the Brihanmumbai Municipal Corporation and the Education Officers (Primary/Secondary and Higher Secondary) from the Zilla Parishad and Municipal Corporations, were informed that a candidate who may not be eligible to be appointed on the post on which his deceased parent was working, he should be offered a lower post depending upon the availability.

8. In the light of the submissions and the pleadings, we have perused the impugned order dated 31/8/2015, vide which, the Education Officer (Secondary), Zilla Parishad, Nashik has declined to grant approval to the appointment of the Petitioner, only for the reason that he was appointed on a lower post, in the backdrop of his deceased father having been working on a higher post.

9. We are intrigued by such logic applied by the Education Officer (Secondary). There is no dispute that the Petitioner does not have the qualifications necessary for being appointed on an equivalent post, as was occupied by his deceased father. We could have taken a stern view in this matter. The learned Additional Government Pleader pleads before us that action may not be taken against the Education

Officer as the impugned order could be a result of a misjudgment.

10. There can be no embargo on grant of approval to a compassionate appointee who is appointed on a post for which he has necessary qualifications. In fact, the G.R. dated 31/12/2002 indicates pragmatism on the part of the Government in dealing with such case of compassionate appointment, in order to ensure that the family which has lost a bread earner, is extended financial support at the earliest. We also appreciate that the Management has promptly appointed the Petitioner on the post of a peon which was available considering his educational qualification. The reasons assigned by the Education Officer in the impugned order is unsustainable.

11. In view of the above, **this Petition is allowed** in terms of the prayer clauses (b), (c) and (d).

12. Needless to state, the payment of the regular salary of the Petitioner as per the salary grants, would commence on the pay day falling in December, 2025. In short, the salary for the month of November payable in December, shall be paid on the pay day. Arrears of the dues payable to the Petitioner would be calculated by the

Management and the necessary bills in this context shall be submitted by the Respondent Management to the Respondent No. 3 Education Officer on or before 21st November, 2025. The Education Officer would meticulously calculate the arrears of the wages and payment of the arrears shall be made on or before 15/1/2026. If such payment is not made, we would grant interest @ of 6% from the date the amount become payable and the highest authority in the School Education Department of the State of Maharashtra would conduct an inquiry to fix the responsibility for the delayed payment and recover the interest component from the concerned officer.

13. **Rule is made absolute** in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)