

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4037 OF 2025**

Smt. Sujata Suresh Awati)
(Ms. Sujata Jakhagonda Patil),)
Aged 61 Years, Occ. Retired,)
R/o. Plot No.10, Varad Colony,)
Laxmi Road, Jaysingpur, Tal. Shirol,)
Dist. Kolhapur – 416 101)Petitioner

Versus

1. The State of Maharashtra,)
Through Its Secretary,)
Higher and Technical Education)
Department, Mantralaya,)
Mumbai – 400 032)
2. The Regional Joint Director)
(Higher Education),)
Kolhapur Region, Kolhapur)
3. Shivaji University, Kolhapur,)
Through its Registrar)
4. The New Miraj Education Society,)
Miraj, Tal. Miraj, Dist. Sangli,)
Through its President/Secretary)
5. Kanya Mahavidyalaya,)
Miraj, Dist. Sangli,)
Through its Principal)Respondents

Mr. Narendra V. Bandiwadekar, Senior Advocate a/w. Mr. Vinayak R. Kumbhar, Mr. Rajendra B. Khaire and Mr. Aniket S. Phapale i/b. Mrs. Ashwini N. Bandiwadekar for the Petitioner.
Mr. V.G. Badgular, AGP for Respondent Nos.1 and 2.
Dr. Prakash Dhondu Bachhav, Respondent No.2, Joint Director of Higher Education, Kolhapur Region present in person.
Ms. Gracy Saldanha i/b. Mr. Vikram Walawalkar for Respondent No.3.
Mr. Sagar Mane for Respondent Nos.4 and 5.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.
DATE : 29th APRIL, 2025**

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.):

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. This is one example wherein a Joint Director of Higher Education (Dr. Prakash Dhondu Bachhav), has, at the cost of wastage of time of the Court, exhibited his insistence of arguing the matter through the learned AGP, only for the purpose of opposing the Petition.

3. This matter was heard on 24th April, 2025 and we noticed that the case of the Petitioner was squarely covered by 3 reported judgments. The learned AGP Mr. Badgujar was instructed by Dr. Bachhav to file an affidavit in this matter and argue this case. He mentioned to us that he desires to argue because he is instructed by the said Officer to argue. We, therefore, permitted him to file the affidavit in reply, but at the same time, cautioned the learned AGP that if we conclude that our time has been wasted only because the said Officer desire to oppose this Petition, we would impose heavy costs. The learned AGP was instructed to state that the said Officer is willing to face the situation.

4. Today, the learned AGP tendered an affidavit in reply along with a judgment delivered by us on 13th March, 2025 in Writ Petition No.14007 of 2017 (*Mrs. Rajani Rajan Dixit alias Rajani Tukaram Washimbekar v/s. State of Maharashtra and Ors.*). The said Officer was present in the Court hall and he instructed the learned AGP that even if the Court imposes costs on him, the matter should be argued.

5. The learned Senior Advocate Mr. Bandiwadkar submitted that this is unnecessary insistence by the said Officer to oppose the Petition by placing reliance on the judgment in *Mrs. Rajani Rajan Dixit* (Supra), which is on completely different set of facts. We, therefore, put it to the learned AGP to discuss with Dr. Bachhav, who was present in the Court, that if we realized that our time is wasted and the matter is opposed merely for opposing sake, we would impose heavy costs. The learned AGP consulted Dr. Bachhav and was instructed to convey to the Court that he is willing to face the situation. It is thereafter, that a full-fledged hearing in the matter commenced.

FACTS OF THIS CASE

6. The facts of the case in hands are that;

(a) The Petitioner was a part time Lecturer in a Degree College from 4th January, 2000 till 31st August, 2008 (8 years and 8 months).

(b) The services were approved and she was on 100% salary grant.

(c) From 1st September, 2008 till her superannuation on 31st December, 2022, she worked as a full time Lecturer on 100% grant-in-aid post (14 years and 4 months).

(d) This appointment was also approved and there was no break in service from the first date of joining as a part time approved Lecturer.

7. The learned AGP relied upon a judgment of this Court in *Mrs. Rajani Rajan Dixit* (Supra) wherein the contentions of the Petitioner were as under :

*(a) On 04.06.1984, Petitioner was appointed as a part-time teacher in the Respondent No. 7 Chhatrapati Shivaji **Night** Junior College managed and run by the Respondent No.6.*

(b) Petitioner was appointed as a full-time (Marathi) teacher. Appointment was temporary for a period for one year w.e.f. 15.06.1985 upto 30.04.1986.

(c) On 22.12.1985, Respondent No.3 rejected the approval of the Petitioner as a full-time teacher.

(d) On 10.06.1986, the services of the Petitioner were terminated.

(e) Petitioner approached the School Tribunal by filing appeal No.104 of 1986.

(f) Vide judgment and order dated 29.09.1986, the School Tribunal, though allowed the appeal, awarded compensation of Rs. 2,000/- to the Petitioner.

(g) Dissatisfied, the Petitioner filed Writ Petition No.3510 of 1987 before this Court.

(h) Writ Petition No.3510 of 1987 was allowed, in terms of the minutes of order filed, by directing the Respondent Nos.6 and 7 herein to reinstate the Petitioner. Order records that :- “Petitioner shall not be treated as temporary anymore and her salary arrears will be paid within two weeks”. Petitioner resumed her duties w.e.f. 21.11.1988.

(i) On 21.11.1988, Respondent No.7 submitted a proposal of the Petitioner for approval to the Respondent No.3. Respondent No.3 granted approval.

(j) By letter dated 31.03.1989, Respondent Nos.6 and 7 terminated the services of the Petitioner.

(k) Petitioner filed Contempt Petition No.135/1989 against the Respondent Nos.6 and 7 in this Court. By order dated 05.09.1989, the Petitioner was ordered to be reinstated in the Night Junior College, with backwages. Petitioner joined duties w.e.f. 11.09.1989.

(l) Petitioner along with other colleague filed Writ Petition No.5709 of 1991 before this Court seeking full-time time workload and pay-sale. By order dated 19.02.1992, Writ Petition No.5709 of 1991 was rejected.

(m) Petitioner filed an appeal No.61 of 1992 before the School Tribunal, Pune

(n) By order dated 06.10.1993, learned School Tribunal Pune declared the Petitioner as full-time teacher w.e.f. from the date of her appointment i.e., from the Academic year 1985-86 with all benefits as a full-time teacher with continuity of service and consequential benefits.

(o) Respondent Nos.6 and 7 being aggrieved by the order dated 06.10.1993 filed Writ Petition No.3756 of 1994 before this Court.

(p) By order dated 28.11.2006, this Court allowed the petition by setting aside the order dated 06.10.1993 passed in appeal No. 61 of 1992.

(q) Petitioner made several representations to the Authorities making a claim for pension and other benefits.

(r) Representation was made to Chairman Human Rights Commission, Mumbai. The said representation was rejected by the Chairman Human Rights Commission, Mumbai.

(s) The Petitioner was before this Court contending that she had worked on part-time and on permanent post, had completed the qualifying, continuous service making her entitled for benefit of pension under the Maharashtra Civil Services (Pension) Rules, 1982 and the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977 ("MEPS Act") and Rules 1981("MEPS Rules").

DECISION OF THIS COURT

(t) This Court concluded that since the service of the Petitioner [Mrs. Rajani Rajan Dixit] was for 29 years, as a part time Teacher in a Night College, she was not eligible for the old pension scheme. This Court dismissed the Petition.

8. Per contra, the facts of the case before us are covered by the judgment delivered by this Court in *Purushottam Harishchandra Shirsekar v/s. State of Maharashtra and Ors.*¹, which was based on the judgment delivered by the Full Bench of this Court in *Deshmukh Dilipkumar Bhagwan and Ors. v/s. State of Maharashtra and Ors.*² and the view taken by this Court in *Ashok Kakasaheb Chougule v/s. State of Maharashtra and Ors.*, vide judgment dated 27th March, 2025 delivered in Writ Petition No.3368 of 2022.

9. It is, thus, apparent that the said Joint Director of Higher Education has insisted upon the learned AGP to argue this matter purely for opposition sake. The Petitioner never wanted the consent of the learned AGP. But, it was incumbent upon the learned AGP to assess that when the daily board is more than 300 matters and surely beyond 250 matters practically on each day, whether it was appropriate to consume the time of this Court only for the purpose of opposing the Petition since the Officer insisted on the learned AGP to oppose this matter and file an affidavit in reply.

1 2022(2) Mh.L.J. 390

2 2019(3) Mh.L.J. (F.B.) 903

10. At this juncture, the said Officer instructed the learned AGP to state that he agrees that the Petitioner's case is covered by the 3 judgments cited by the learned Senior Advocate.

11. As such, this is not only a fit case for imposing heavy costs on the said Officer, but also to convey to the highest Officer of his Department to record our displeasure in his service book for having wasted the time of the Court. Now, the learned AGP submits on instructions from the said Officer that costs may not be imposed. At the request of the learned AGP, we are not imposing costs.

12. In view of the above, **this Petition is allowed** in terms of prayer clauses (b) and (c), which read as under :

(b) By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent Nos.2 to 5 to apply to the Petitioner the pension scheme prevailing prior to 1.11.2005 [old pension scheme] in accordance with the provisions of the Maharashtra Civil Services [Pension] Rules, 1982, and the Petitioner be granted all the consequential service benefits under the said old pension scheme.

(c) By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondents to count 50% of the service rendered by the Petitioner in the post of part time Lecturer [Economics] in the Respondent No.5 College, from 4.1.2000 till 31.8.2008, alongwith the entire service rendered in the post of full time Lecturer [Economics] in the Respondent No.5 College

from 1.9.2008 till 31.12.2022, as the qualifying service for the purpose of payment of retirement benefits to the Petitioner, and accordingly the Petitioner may be granted all the consequential service benefits.

13. Appropriate steps for forwarding the proposal for grant of pension, as per the Old Pension Scheme, shall be initiated expeditiously and with the coordination of the concerned Officer and the Management, it shall be ensured that payment of regular pension shall commence from the month of August, 2025 and the arrears of pension shall be paid from 1st January, 2023 till 31st July, 2025 in the month of August, 2025 with simple interest at the rate of 6% p.a.

14. We direct the Principal Secretary, Higher and Technical Education Department of Maharashtra, Mumbai, to record our displeasure on the conduct of the Officer Dr. Prakash Dhondu Bachhav, in his service book. Compliance of this direction shall be reported to this Court on 27th June, 2025.

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

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)