

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

905. WRIT PETITION NO. 11917 OF 2024

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Sarika Dilip Gurav Alias
Manasi Shailendra Lingayat

.. Petitioner

Versus

The State Of Maharashtra Thr
The Secretary, School Edu. And Sports Dept.
And Ors

.. Respondents

906. WRIT PETITION NO. 11936 OF 2024

Prajakta Aniruddha Kalas Alias
Prajakta Shankar Khatavkar

.. Petitioner

Versus

The State Of Maharashtra Thr
The Secretary, School Edu. And Sports Dept.
And Ors

.. Respondents

Mr. Vinod Sangavikar, a/w. Shubham Sonawale & Mr. Siddeshwar Galande, for the Petitioner in both Petitions.

Mr. S. H. Kankal, AGP for the Respondent-State in WP/11917/24.

Mr. V. M. Mali, AGP for the Respondent-State in WP/11936/24.

Mr. Chintan Y. Shah, for the Respondent No.5 in both WPs.

CORAM: RAVINDRA V. GHUGE

&

GAUTAM A. ANKHAD, JJ.

DATE: 17th JULY, 2025

P. C.

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

2. On 28th August, 2024 this Court [Coram: Nitin Jamdar (as his Lordship then was) and M.M.Sathaye,JJ] passed an order in Writ Petition No.11917/2024, thereby directing that merely because the Petitioner does not have an approval, she should not be terminated from Service. A similar Order was passed on 27th August, 2024 by the same Bench in Writ Petition No.11960/2024, protecting the service of the Petitioner. Though an Order was not passed in Writ Petition No.11936/2024, the said Petitioner is also protected and she continues to be in employment.

3. The above Orders were passed by this Court in view of the fact that the Petitioners, Sarika and Prajakta, have been working from 2011 and 2015, respectively. Ms. Rinku (Petitioner in WP/11960/2024) was working since 2022. The Management had sought to fill up these three posts through the Pavitra Portal on the ground that these three persons have still not received their approvals.

4. We have considered the submissions of the learned Advocates for the respective sides.

5. In these two matters, an advertisement in a relatively unknown Newspaper was published. The Management had not taken the prior permission of the Education Authorities for publishing the advertisement. The Management has also not sought guidance from the Education Officer as to whether there are any eligible surplus Teachers, who could be absorbed.

6. The Petitioner Sarika was initially appointed on 25th September, 2012 as a trainee with effect from 1st October, 2012 to teach Secretarial Practice and Organization of commerce (subjects) for 11th and 12th Standard. On 15th June, 2016 she was appointed as an Assistant Teachers in the said subjects. The Management did not submit her proposal for approval, for a long time.

7. In the case of Prajakta, she was appointed on 1st July 2011 as an Assistant Teacher to teach Science subject for the 9th and 10th standard. From 9th July, 2016 till 30th June, 2018, she was appointed in the P.K. Sheth Madhyamik Vidyalaya, Govele, Tal. Mangaon, Dist. Raigad. She was then

appointed in the Respondent No.2 - School as an Assistant Teacher to teach the same subject from 1st July 2018. Even her proposal was not forwarded to the authorities for grant of approval. Ms. Prajakta, has also appeared for the TAIT examination held in February, 2023 and has secured 103 marks out of 200.

In all these two cases, including the one of Malti (Supra), the appointments were made much prior to the introduction of the Pavitra Pranali.

In the above backdrop, since the Management sought to fill up the posts through Pavitra Portal, these Petitioners are before this Court.

8. The learned AGP has verified the records and submits that there is adequate proof of these Petitioners having been appointed by the employer from the dates recorded in the forgoing paragraphs. Salaries, though as meager as Rs.2000/- per month, were paid when they commenced their employment and presently Rs.7000/- per month is being paid. The fact remains that they have been working continuously. He further submits that because the Management did not tender the proposals for seeking approvals, the Education Department had no occasion to deal with these cases.

9. Nevertheless, the irregularities committed by the Management are writ large on the face of the record, besides exploiting these two teachers by paying meager salaries.

10. The learned Advocate for these two Petitioners submits that they had no option but to continue to work on account of dire necessity. They would not have survived without an employment. They had a legitimate expectation that some day they would be confirmed in employment, when the grant in aid is made available. This was the driving factor compelling them to work on meager salaries. He further submits that both are settled in employment for more than 13 to 14 years.

11. The learned Advocate for the Petitioners points out an Order passed by a Co-ordinate Bench on 20th March, 2025 in Writ Petition No.11959/2024 (Malti Ramchandra Pailkar alias Malti Sagar Chandarkar Vs. State of Maharashtra & Ors.). This Petitioner was working as an Assistant Teacher from 1st July, 2009 while teaching the subject of Social Science for the 9th and the 10th standard in the N.M. Joshi Vidyabhavan School. She also had a Caste Validity Certificate. Her appointment was in accordance with the requisite qualification. Hence, by Order dated 20th March, 2025, the

advertisement was set aside and the Management was directed to tender the Petitioner's proposal for approval to the Education Officer.

12. In similar such matters, this Court has regularised such appointments, only after noticing that the employees have been working for more than a decade or 1½ decade. If no fault can be found with such employees and when all the irregularities stand at the doorstep of the Management, it is the Management which has to be made to suffer by imposition of costs. The learned Advocate for the Petitioners submits that since in the case of Malti Ramchandra Pailkar, the matter has been remitted to the Education Officer, the same relief may be granted to these two Petitioners.

13. Since these two Petitioners, as well as Malti Pailkar (Supra), have been working for more than 13 years, we direct the Management to tender the proposal of both these Petitioners, complete in all respects, within 15 days from today, failing which, if the issue is brought to this Court once again, we would be imposing heavy costs on the Management. Once the proposal is tendered, even the qualification of these Petitioners are commensurate to the requisite qualification. The Education Officer would proceed to consider these cases in the backdrop of they being in employment of more than 13 to 14 years and if there are minor irregularities including irregularities as regards

publication of advertisement, the same may be condoned for the grant of approvals. If the decision in Malti Pailkar (supra) is still not been arrived at, the same analogy would be applied. If the Education Officer notices that the Management has committed certain irregularities, we permit the Education Officer to pass an appropriate order for imposing costs on Management, to be paid from the account of the Management and not to be recovered from any of these Petitioners.

14. The decision in the light of the above observations, shall be taken by the Education Officer within a period of 45 days from the date of the submission of the proposals. Consequentially, the posts on which Sarika and Prajakta are working, would stand deleted from the list of posts advertised under the Pavitra Portal.

15. **The Writ Petitions are partly allowed**, in the above terms. Rule is made partly absolute accordingly.

[GAUTAM A. ANKHAD, J.]

[RAVINDRA V. GHUGE, J.]