IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO.14611 OF 2024**

Mangal Sarjerao Mokashi @
Mangal Kailas Nilkanth ...Petitioner
vs.
The State of Maharashtra and Others ...Respondents

**WITH**
**WRIT PETITION NO.14196 OF 2024**
**WITH**
**WRIT PETITION NO.14080 OF 2024**
**WITH**
**WRIT PETITION NO.14077 OF 2024**
**WITH**
**WRIT PETITION NO.14079 OF 2024**
**WITH**
**WRIT PETITION NO.14076 OF 2024**
**WITH**
**WRIT PETITION NO.14610 OF 2024**
**WITH**
**WRIT PETITION NO.14622 OF 2024**
**WITH**
**WRIT PETITION NO.14612 OF 2024**
**WITH**
**WRIT PETITION NO.14613 OF 2024**
**WITH**
**WRIT PETITION NO.14614 OF 2024**
**WITH**
**WRIT PETITION NO.14615 OF 2024**
**WITH**
**WRIT PETITION NO.1975 OF 2025** (Sr.8)
**WITH**
**WRIT PETITION NO.6442 OF 2025** (Sr.21)
**WITH**
**WRIT PETITION NO.8727 OF 2025** (Sr.27)
**WITH**
**WRIT PETITION NO.10065 OF 2025** (Sr.31)
**WITH**

**WRIT PETITION NO.10066 OF 2025** (Sr.32)
**WITH**
**WRIT PETITION NO.10067 OF 2025** (Sr.33)
**WITH**
**WRIT PETITION NO.10068 OF 2025** (Sr.34)

Mr. Vivek Chauhan i/b. Mr. Arvind Ambetkar, for the Petitioners.
Mr. P.P. Kakade, AGP a/w. Mr. V.G. Badgujar, Mr. O.A. Chandurkar, Mr. P.N. Diwan, Mr. N.M. Mehra, Mr. S.H. Kankal and Ms. Pooja Deshpande, for the Respondent-State.
Mr. Manish Kelkar a/w. Ms. Gauri Phadake, for Respondent Nos. 6 and 7.

**CORAM : RAVINDRA V. GHUGE &**
**ASHWIN D. BHOBE, JJ.**
**DATE : SEPTEMBER 9, 2025**

**P.C:**

1. All the Petitioners in these Petitions are identically placed. In similar facts and circumstances, with reference to identically placed Petitioners, this Court had passed an order on 27th February, 2025 in Writ Petition No. 2345 of 2014 and connected matters (Maharashtra Rajya Madhyamik Va Uccha Madhyamik Shala Kruti Samittee and Ors. vs. State of Maharashtra and Ors.). We had issued specific directions in paragraph 17 of the said judgment dated 27th February, 2025, which reads as under:-

> 17} In view of the above, these Petitions are disposed off with the following directions:-
> (a) The cases of these Petitioners (working in Junior colleges) including those persons who are represented by a Union or an Action Committee, or those who have not approached the Court, would be placed before the respective Deputy Director of Education of the said Division. In the case of the schools, the proposals would be tendered to the Education Officer, who would transmit them to the Deputy Director of Education. In the case of Junior College Employees, their

respective Managements would forward their proposals directly to the Deputy Director of Education.

(b) Let the above exercise be completed by the respective employers within a period of 45 days from the date of the uploading of this final order on the official website of the Bombay High Court. Parties are at liberty to act on the printout of this final order downloaded from the official website.

(c) After the Deputy Director of Education of the respective regions receive such proposals, a meticulous scrutiny of the records would be carried out with the assistance of the Management. While sending the proposals, the Managements would mention their e-mail addresses on the proposals for easy correspondence so as to enable the Deputy Director of Education to seek clarification or assistance or solicit further information, as the case may be.

(d) All the proposals would be scrutinized, preferably by 30th September, 2025.

(e) The concerned Deputy Director of Education would pass individual orders in the case of each candidate mentioned in the proposal. Those who are already retired would be given a priority and their proposals would be decided first. Those who are close to retirement, their proposals would be taken up thereafter and those who have a sufficiently long duration for retirement, would be taken up thereafter.

(f) In matters wherein the proposals are negatived, the Deputy Director would assign reasons which would indicate the basis of the rejection. We clarify that his order must clearly indicate the reasons for the refusal of the Old Pension Scheme to a particular candidate.

(g) We make it clear to the Managements of all Schools and Colleges over the State of Maharashtra that they would forward the proposals as directed above, not only with regard to those Petitioners or candidates who were able to reach the Court by filing Petitions, and would include even those candidates who are the employees on its rolls and forward their proposals also to avoid further litigation or inflow of new matters. In short, those candidates who are employees and not before the Court would also be the beneficiaries of this order and the respective employers would also forward their proposal along with proposals of these Petitioners.

(h) Until the decision of the Hon'ble Supreme Court is delivered in the Special Leave Petition (SLP) filed by the State Government challenging the view taken by the Division Bench in Nilesh Namdev Gurav (supra) and the proceedings initiated by individuals before the Hon'ble Supreme Court [assailing the view taken by the learned Full Bench of this Court in Deshmukh Dilipkumar Bhagwan and Others (supra)], the Deputy Director of Education would follow the law as is laid down in Deshmukh Dilipkumar Bhagwan and Others (supra) and

> Nilesh Namdev Gurav (supra). In the event, the Hon'ble Supreme Court delivers an order in Deshmukh Dilipkumar Bhagwan and Others (supra) and/or Nilesh Namdev Gurav (supra), the said Authority would be obliged to follow the view and the directions set out by the Hon'ble Supreme in such judgment."

2. While issuing the aforesaid directions, we had referred to a judgment delivered by the Full Bench of this Court in **Deshmukh Dilipkumar Bhagwan and Others V/s. State of Maharashtra and Others**[1], the observations of which have been reproduced in paragraph Nos. 6, 7 and 8 which read as under:-

> 6} For the aforesaid reasons, the Hon'ble the Chief Justice constituted a Full Bench [Coram: S.C. Dharmadhikari (as his Lordship then was), Akil Kureshi and Nitin W. Sambre JJ.] which delivered its judgment in Deshmukh Dilipkumar Bhagwan and Others (supra) reported at 2019 (3) Mh.L.J. 903. The learned Full Bench quoted the issues that were addressed to it, in Paragraph No.16 which reads as under:
>
> > "16. The Court, therefore, referred the following questions for consideration of the Larger Bench.
> >
> > 1. Whether only those schools and colleges of education which are receiving 100% aid can be termed as the aided institutions or whether schools and colleges of education receiving less than 100% aid can also be termed as aided institution?
> > 2. Whether the employees who were appointed prior to 1st November, 2005 in the aided recognized primary, secondary and higher secondary schools as well as colleges of education which were receiving less than 100% grant-in-aid as on 1st November, 2005 are entitled to the benefit of Old Pension Scheme under the Pension Rules and the Commutation of Pension Rules or whether they will be governed by the New Pension Scheme under the GR of 2005?
> > 3. Whether the employees who were appointed prior to 1st November, 2005 in the aided recognized primary, secondary and higher secondary schools as well as the colleges of education which were receiving less than 100% grant-in-aid as on 1st November, 2005 but which became 100% aided before the date on which the GR of

1 2019 (3) Mh.L.J. 903.

> 2010 came into force, are entitled to the benefit of Old Pension Scheme under the Pension Rules and the Commutation of Pension Rules or whether they will be governed by the New Pension Scheme under the GR of 2005?”

7} The learned Full Bench has recorded in Paragraph No.1 as under:

> The petitioners in these petitions are teachers and non-teaching staff regularly appointed in various recognized aided schools in the State of Maharashtra. The respective schools are presently receiving 100% grant-in-aid from the State Government. All these employees were appointed prior to 1-11-2005. However, at the time of their appointments, the schools were not receiving 100% grant-in-aid. Admitted position is that all the schools started receiving 100% grant-in-aid from the Government only after 1-11-2005. The significance of this cut off date of 1-11-2005 would become clear as we record further facts. At this stage, however, we note that the Government of Maharashtra has introduced a Defined Contributory Pension Scheme ("DCP Scheme" for short) w.e.f. 1-11-2005 for the State Government employees as well as for the staff of private aided schools and colleges replacing the existing pension scheme. Petitioners claim that as they have been recruited prior to 1-11-2005, they would be governed by the old pension scheme irrespective of the fact that the schools in which they were appointed, started receiving 100% government grant after 1-11-2005. On the other hand, Government argues that an employee of a private school recruited prior to 1-11-2005 would be governed by DCP Scheme if the school in which he was appointed, started receiving 100% grant-in-aid only after 1-11-2005.”

8} While dealing with the issues addressed to the larger Bench, it has been recorded in Paragraph No. 28 as regards the origin of the Pension Scheme, as under:

> 28. We have traced the origin of the right of the employees of the aided recognized schools to receive pension from the Government. It originated from the GR dated 4-1-1968 under which it was provided that the pension, gratuity and other retiral benefits admissible to the Maharashtra State Government Servants under the Revised Pension Rules 1950 as amended from time to time and the family pension would be applicable to the full time teaching staff in recognized aided non-Government secondary schools in the State who retire on or after 1-4-1966. Over a period of time, such benefits were extended also to the employees of aided primary schools. In order to regulate, recruitment and conditions of service of employees in private schools in the State, the said Act of 1977 was enacted. In exercise of powers

conferred under the said Act, the State Government framed the Rules of 1981 in which the pensionary benefits of the employees of the private recognized aided schools were recognized under Rule 19. As per this Rule, an employee of an aided secondary school and aided Junior College of Education working on full time basis and retiring on or after 1-4-1966 and an employee of an aided primary school working on full time basis and retiring on or after 1-4-1979 who have opted for pension and the employee appointed on or after the said dates would be eligible for pension at the rates and in accordance with the rules as are sanctioned by the Government specifically to the employees of private schools. Thus, the Government brought within the fold of the pension scheme all the full time employees of aided secondary school, aided Junior College of education and primary school from respective dates. The existing staff would have an option to be continued to be governed by the contributory provident fund scheme or to switch over to the pension scheme. All employees appointed after the cut off date would automatically and compulsorily be governed by the pension scheme. The right to claim pension from the Government by a full time employee of a school was thus closely linked with the educational institution receiving aid from the Government. Unless and until, the school in question was paid grant-in-aid by the Government, the question of the employee of said school claiming pensionary benefits from the Government would not arise. It is indisputable that even in absence of the present controversy, an employee of a private recognized school could claim pension from the Government only if the school in which he was employed at the time of his retirement was receiving Government grant-in-aid. Even otherwise, the concept of asking the Government to pay pension to an employee of a school which does not receive grant from the Government is entirely unknown. The liability of the Government to pay to a retired employee of a private recognized school the post retirement benefits would arise only if the school from which the employee retired was receiving Government grant-in-aid."

3. Ultimately, the Full Bench answered the three questions referred to it, in paragraph 37 which was reproduced by this Court in paragraph 10, as under:-

10} The learned Full Bench recognised this aspect of the matter and dealt with the issues addressed to it, taking into account the G.R. dated 31st October, 2005. Consequentially, the learned Full Bench answered the three issues in Paragraph No.37 as under:

"37. Under these circumstances, we answer the Reference as under:-

**Question No. 1:**
In the context of the right of an employee of private school or college of education to receive pensionary benefits and the corresponding liability of the Government to pay the same, only those schools and colleges of education which are receiving 100% grant-in-aid can be termed as aided institutions.

**Question No. 2:**
The employees who were appointed prior to 1-11- 2005 in aided recognized primary, secondary schools as well as colleges of education which were receiving less than 100% grant-in-aid as on 1-11-2005 would be governed by the DCP scheme.

**Question No. 3:**
Similar will be the situation of the employees who were appointed prior to 1-11-2005 in aided primary, secondary and higher secondary schools as well as the colleges of education which were receiving less than 100% grant-in-aid as on 1-11-2005 but which became 100% aided before 29-11-2010 would also be governed by the DCP scheme."

4. In view of the above, it would be appropriate to follow the same course as has been adopted by this Court vide judgment dated 27th February, 2025. In the peculiar facts and circumstances, as recorded herein above, **all these Petitions are disposed off** in terms of the directions set out below paragraph 17(a) to 17(h).

5. The Dy. Director of Education or the Education Officer, as the case may be, would scrutinize each of the cases of the Petitioners in view of the directions reproduced below paragraph 17 herein above.

6. Needless to state, the cases in which the authorities conclude that the Petitioners are eligible for old pension scheme, including those who may have superannuated, if any, further steps for submissions of their pension papers and their clearances shall be taken up expeditiously and in such circumstances, the office of the Accountant General would not hold any of such candidates as being ineligible for pension after the Competent Authority has duly scrutinized those cases.

7. It goes without saying that if any claims of any of these Petitioners are rejected, meaning thereby, if their claim for OPS is not accepted on the ground of ineligibility, they would be at liberty to avail of a remedy as is permissible in law.

8. So far as the directions below paragraph 17(g) reproduced above, by which the Management of Schools and Colleges all over the State of Maharashtra have been directed to forward proposals to the appropriate authorities for scrutiny, if there is any shortage of information or if the Management finds itself short of details or if it deems appropriate to elicit further information from such employees, they would call upon the employees to tender certain documents which are required for assessing their claims and the employees would thereafter render co-operation in

order to assist the Management in supplying the documents.

9. In the earlier cases, the time line was granted to the extent of seven months. Hence, we would expect the entire exercise to be completed by 15th April, 2026.

10. If the proposals have not been tendered, the Managements would scrutinize such proposals by gathering appropriate information and submit the same expeditiously.

11. All contentions of such Petitioners while assailing such adverse decisions, are kept open.

12. In view of above order and the disposal of the Petitions, the **Interim Applications**, would not survive and **stand disposed off**.

**(ASHWIN D. BHOBE, J.)** **(RAVINDRA V. GHUGE, J.)**