

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.18522 OF 2024**

Dudhsakhar Shikshan Prasarak Mandal & Anr.Petitioners

Versus

The State of Maharashtra and Ors.Respondents

Mr. Chetan Patil i/b. Mr. Mandar G. Bagkar for the Petitioners.
Mr. P.P. Kakade, Addl. GP a/w. Mr. S.B. Kalel, AGP for the State.
Mr. Prashant Bhavake for Respondent No.4.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.
DATE : 28th MARCH, 2025**

P.C. :-

1. After several rounds of hearing in this matter, the Petitioner Management and Respondent No.4 have arrived at a meeting point and have jointly tendered the minutes of order dated 27th March, 2025. The signed copy of the minutes of order (5 pages) is taken on record and marked as '**X-1**' for identification.

2. For the sake of brevity, the minutes of order X-1, are verbatim reproduced hereunder :

*1. Heard the Counsels for the respective parties.
The present writ petition is filed under Article 226
of Constitution of India, 1950 being aggrieved by
the order dated 05-08-2024 issued by respondent
No.2 herein.*

2. The respondent no.5 herein has been working as a teaching employee in petitioner No.2 Junior College since 01-08-2010, earlier on C.H.B and thereafter as a part time employee. The husband of respondent no.4 was also working on part time teaching post in petitioner No.2 Junior College. He died while he was in service on 15-10-2020. The respondent no.4 has sought appointment on compassionate basis in petitioner no.2 Junior College.

3. One full time teaching post for the subject of Marathi became vacant in petitioner no.2 Junior College due to the retirement of one of its employee namely V.D Shelke on attaining age of superannuation on 31-05-2024. The respondent no.5 who was working on part-time post had submitted a letter to the petitioner no.1 management on 01-05-2024 seeking his upgradation on full time post, which was due to fall vacant on 31-05-2024.

4. In pursuance of the relevant Government Resolutions providing for upgradation of part time employees to full time post and the letter of respondent no.5 dated 01-05-2024, the petitioner no.1 management appointed respondent no.5 on the post of full time Assistant Teacher for the subject of Marathi w.e.f. 01-07-2024. The respondent no.4 does not have any objection to the appointment of respondent no.5 on the aforesaid post of full time Assistant Teacher and undertakes before this Hon'ble Court that she will not raise any dispute in respect of the said appointment in future.

5. Due to the upgradation of the respondent no.5 on full time teaching post the part time post which was earlier occupied by him is now vacant. On the said part time teaching post, the petitioner

no.1 management will appoint Respondent No.5 w.e.f. 01-04-2025 as a part time Shikshan Sevak.

6. The petitioner no.2 will submit the proposal seeking approval to the appointment of respondent no.5 on the post of full time Assistant Teacher and to the appointment of Respondent No.4 on the post of part time Shikshan Sevak within a period of 30 days from the date of this order. The respondent no.2 will decide the said proposal within a period of 45 days from the date of the receipt of the said proposals.

7. In the Secondary School run by the petitioner no.1 management one full time teaching post is due to fall vacant, as one of its employee viz. Dattatraya Tukaram Kamble, who was appointed on D.Ed. scale w.e.f. 11-06-1990, is due to retire on attaining the age of superannuation in 31-01-2026. The petitioner no.1 Management will appoint respondent no.4 on the post of full time Shikshan Sevak w.e.f. 01-02-2026 in the Secondary School on the place occupied by Dattatraya Tukaram Kamble, on D.Ed. scale. The Headmaster of the Secondary School will submit the proposal seeking approval to the appointment of the respondent no.4 on the post of full time Shikshan Sevak within a period of 30 days from the date of her appointment and respondent no.3 will decide the said proposal within a period of 45 days from the date of receipt of the proposal in accordance with law.

8. In view of the aforesaid order, the impugned order dated 05-08-2024 is quashed and set aside. The Writ Petition stands disposed off accordingly in aforesaid terms with no order as to cost.

3. In addition to the above minutes of order, which we approve, we direct the parties as under :

(a) Since Petitioner No.1 Management has undertaken to issue an appointment order to Respondent No.4, as set out in the minutes of order, such order would be issued on 1st April, 2025 and Respondent No.4 would be permitted to join duties on the same day;

(b) In terms of the agreement between the parties, the order to be issued to Respondent No.4, by way of appointment as a full time Shikshan Sevak on a permanent post which would fall vacant on the superannuation of Dattatraya Tukaram Kamble, would be issued one week prior to the date of joining on 1st February, 2026;

(c) The Petitioner No.1 Management would forward the proposal for approval to the part time appointment of Respondent No.4 as well as of Respondent No.5, within 15 days from today;

(d) Insofar as Respondent No.4 is concerned, since the appointment is on compassionate basis, the Deputy Director of Education, Respondent No.2, would grant approval to her appointment, within 15 days from the date of receipt of the proposal;

(e) Insofar as Respondent No.5 is concerned, the concerned Authority would consider the proposal on its own merits and a reasoned order be passed within a period of 30 days from the date of receipt of the proposal. If there are any deficiencies, the deficiencies would be cited before the Management in one stroke and time would be granted to remove the deficiencies without rejecting the proposal. After the Management

removes the deficiencies, the said proposal of Respondent No.5 would be considered on its merits;

(f) After Respondent No.4 is appointed on a vacant post, with effect from 1st February, 2026, the Management would tender the proposal, complete in all respects, within 15 days from the date Respondent No.4 joins the duties, to the Education Officer (Secondary), Respondent No.3 herein, since her appointment is on compassionate basis, subject to Respondent No.4 acquiring the qualification of TET;

(g) Respondent No.4 would ensure that she passes the teacher's eligibility test (TET) or the CTET, in three consecutive attempts or three years, whenever the Government holds the TET or CTET exam in the light of the Government Resolution dated 2nd September, 2024, whichever is later.

4. **This Petition is disposed off** in terms of the reproduced minutes of order and the above directions.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)