

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.18812 OF 2024

Dhananjay Pandurang Dhanke and Ors.Petitioners

Vs.

The State of Maharashtra and Ors.Respondents

Ms.Preeti Walimbe a/w Ms. Vaishnavi Nagargoje for the Petitioner.

Mr. V. G. Badgujar, AGP for the State/Respondent No.1.

Mr. Nikhilesh Pote, for the Respondent No.2.

Mr. Sahil Sakhare for the Respondent No.3.

Adv. S. B. Talekar a/w Madhavi Ayyappan a/w Shivali Tikate i/b
Talekar and Associates for the Respondent No.5.

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

DATE : 5TH MAY, 2025

P.C. :-

1. Having considered the submissions of the learned Advocates on behalf of the appearing parties from all angles, it is undisputed that after the bifurcation of the Thane Zilla Parishad, thereby creating the Palghar Zilla Parishad, an arrangement was arrived at to ensure that none of the Zilla Parishad schools in these two areas demarcated with the bifurcation, would suffer and more importantly the students taking education in such schools in the two regions, would have sufficient teachers for imparting education.

2. It was in this context that a bunch of Petitions came up before this Court bearing Writ Petition No.6464 of 2017, Writ Petition No.4198 of 2017, Writ Petition No.4207 of 2017, Writ Petition No.6465 of 2017 and Writ Petition No.6466 of 2024. The judgment was delivered by this Court [Coram: B. R. Gavai (as his lordship then was) and Riyaz I. Chagla, JJ.] on 23rd June, 2017. The guidelines issued by this Court in the said judgment are set out in paragraph No. 11 to 16, as under:

“11 When the matters were adjourned to 22nd June 2017, the learned Government Pleader expressed his inability to find out a workable solution. We were of the considered view that the July Resolution was not sustainable in law. However, an interference at this stage would have amounted to disruption of the entire primary education in Thane and Palghar Districts. Per chance, the learned Advocate General happened to be in Court and we requested him to use his good offices to sort out the issue.

12 We had informed the learned Advocate General that the Court is not interested only in protecting the interest of the teachers, but is also interested in protecting the interest of the students. We had, therefore, suggested that if the Government withdraws the July Resolution, we will consider permitting the Government to act on the basis of the July Resolution for some time provided it undertakes to complete the exercise as per the February Resolution within a stipulated period. The learned Advocate General sought a day's time to seek instructions.

13. When the matter is listed today, the learned Advocate

General, after taking instructions, from the Secretary of the Rural Development Department, has placed the following Note before the Court. The same is taken on record and marked "X" for identification purposes. The same is reproduced as under:

“NOTE

The State proposes to take following action:-

1 The Government Resolution dated 22nd July, 2016 (Page 38) will be withdrawn.

2 Resultantly, the original Government Resolution dated 29th February, 2016 (Page 30) will get restored.

3 The Government reserves liberty to modify the said Government Resolution dated 29.02.2016 appropriately, if and when found requisite.

4 However, while doing such an exercise, the Government will not disturb the following two aspects of the said Government Resolution dated 29th February, 2016.

(a) Applicability of the Roster and the relevant consequential aspects of applicability of the Roster as envisaged by the said Government Resolution dated 29th February, 2016.

(b) The mechanism contemplated by Clauses 11 and 12 of the said Government Resolution dated 29th February, 2016.

5 In order to avoid any disruption of educational activities of the current academic year that have already commenced, the orders of transfer that have been issued will not be disturbed till the end of present academic year 2017-18.

6 Appropriate exercise under the Government Resolution dated 29th February, 2016 with modification thereto, as stipulated hereinabove, if and when required, will be carried out and completed before the end of February, 2018.

7 All the Interim Orders passed in the present proceedings may kindly be vacated and the Petitioners be directed to resume their duties forthwith.

Sd/- (Girish Bhalerao)

Dy. Secretary, R.D.D."

14. We find that the Note submitted to the Court by the learned Advocate General answers the concern of the Court as well as, protects the interest of the teachers as well as the students.

15. The main grievance of the teachers was that by July Resolution, there will be concentration of a particular category of teachers in particular Zilla Parishad which will lead to imbalance. We find that if the February Resolution is implemented, the said grievance would no more survive. The another grievance of the Petitioners was that under the February Resolution, a choice was available to them if they were compelled to go to the Zilla Parishad against their choice, to come back to the Zilla Parishad of their choice as and when, in the recruitment process a candidate of the category to which they belong was available. It was further their grievance that the February Resolution also provided for regaining the seniority in the Zilla Parishad after they return to the Zilla Parishad of their choice. It was, however, their grievance that this choice was taken away in the July Resolution. We find that in the Note submitted by the learned Advocate General it is specifically stated that clauses (11) and (12) of the February Resolution would not be effected and as such it squarely takes care of the grievance of the Petitioners in that regard.

16. We find the suggestion given by the learned Advocate General that in order to protect the interest of the students, the orders which are already issued should continue to operate till the end of the academic session is also in the larger interest of the students. We find that if there is a sword of uncertainty over teachers and likelihood of they being shifted in the mid-term, there would be no commitment to complete the course. We find that the outer date of end of February would also provide a sufficient cushion to the aggrieved teachers if they are aggrieved by any of the decisions taken by the Zilla Parishad Authorities in pursuance to the Note submitted by the learned Advocate General.

3. PIL No.97 of 2023, was filed before this Court. By an order dated 20th July 2023, the PIL Bench noted in paragraph Nos. 5 and 6, as under:

"५) मा उच्च न्यायालय, मुंबई येथे दाखल रिट याचिका क्र. ६४६४/२०१७ व इतर मधील दि. २३.०६.२०१७ चा न्यायनिर्णय

६) शासन निर्णय, ग्रामविकास विभाग क्र. संकीर्ण-२०१७/प्र.क्र. १३४/आस्था-०८ दि.३१.०७.२०१७"

4. In view of the above, Mr. Talekar appearing on behalf of the Respondent No.5, who is the Petitioner in the PIL, has assisted the Court. He submits that the PIL was filed to ensure that the imparting of Education is not affected after the creation of the Palghar Zilla Parishad. The PIL was filed only to ensure that there is a balancing act by the authorities concerned so that enough teachers are available in the various Zilla Parishad Schools in Thane as well as Palghar.

5. If a situation had arisen wherein all the teachers were concentrated at Thane, then Palghar Zilla Parishad would have been left with scouting for teachers. This would have created a serious educational imbalance. The balance was struck in the light of the order passed by this Court in Writ Petition No.6464 of 2017. He

therefore, submits that on the one hand, the Palghar Zilla Parishad needs to have selected list of candidates ready to be deployed in the positions temporarily occupied by the Thane Zilla Parishad teachers who were transferred to Palghar to achieve a balance.

6. The learned Advocate representing the Palghar Zilla Parishad submits that as on date, the vacancy percentage is 17.75%. The learned Advocate representing the Thane Zilla Parishad submits that the vacancy percentage is around 6 to 7%. He submits that the moment Palghar Zilla Parishad starts appointing selected candidates, the Thane teachers who were sent to Palghar, can come back to Thane. There are vacancies available today to absorb these employees on their return.

7. We are of the view that the teachers from Thane who were sent to Palghar around 9 years ago, have sacrificed to quite an extent. Their sacrifice cannot be ignored. They have not gone to Palghar by choice, baring some, who may have, due to proximity to their residences/towns in the Palghar region. Option could be given to them to continue in Palghar, if they don't desire to return. However, those teachers from Thane, who have not gone to Palghar

by choice, away from their home towns or native places, may be most eager to come back to Thane. Therefore, the Palghar Zilla Parishad should first embark upon posting newly selected candidates on such posts which are occupied by those Thane teachers who are eager to come back to Thane.

8. Keeping in view the order passed by this Court vide the judgment dated 23rd June, 2017, and the order passed by the PIL Court on 20th July 2023, it will have to be kept in mind that an equilibrium will have to be maintained, to ensure that none of the directions set out in these two orders are disturbed. The order passed on 20th July 2023 in the PIL Petition is in the interest of ensuring that an imbalance in the deployment of teachers does not occur. Mr. Talekar submits that once the positions are filled in, in Palghar, the candidates desirous of returning to Thane, could be relieved from Palghar and could be posted in Thane, since the vacancies are available in the light of the statement made by the learned Advocate for the Thane Zilla Parishad.

9. The learned Advocate for the Palghar Zilla Parishad submits that the CEO would be consciously making the

appointments in the light of the above observations. It would ensure that the postings would be made in such a manner that the candidates who have originally sent from Thane and are desirous to return to Thane, would be kept in focus so as to make the appointment on the principle of “one on one”. In short, those candidates desirous of returning to Thane would be kept in focus while making postings of new appointees so that these teachers can be released and can then be deployed with Thane Zilla Parishad at the stroke of the commencement of the 2025-2026 academic year.

10. He submits that this data would be placed before this Court on 10th June, 2025.

11. **Stand over to 10th June, 2025 on the supplementary board.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)