

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4214 OF 2025
WITH
WRIT PETITION NO.4215 OF 2025

VAIBHAV
RAMESH
JADHAV
Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2025.04.08
18:51:34 +0530

Vidya Ashok Patil

... Petitioner

V/s.

Shree Prince Shivaji Maratha Boarding
House, Through Its Chairman, Shivaji
Peth, Kolhapur & Ors.

... Respondents

Mr. C. G. Gavnekar with Mr. Ashutosh Gavnekar for the
petitioner.

Mr. Dheeraj Patil for respondent No.1.

Mr. J. P. Patil, AGP for the State in WP/4214/2025.

Ms. Aloka A. Nadkarni, AGP for the State in
WP/4215/2025.

CORAM : AMIT BORKAR, J.

DATED : APRIL 8, 2025

PC.:

1. Challenge in the present writ petition is to the judgment and order dated 10th February 2025 passed by the learned School Tribunal, Kolhapur, thereby dismissing the petitioner's Appeal Nos. 26 and 28 of 2020 preferred under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short, "the MEPS Act").

2. According to the petitioner, she was appointed as a 'Shikshan Sevak' with effect from 1st July 2013, pursuant to and in

accordance with the Government Resolution dated 13th October 2000. It is the case of the petitioner that she continued to discharge her duties uninterruptedly up to 1st July 2020. The petitioner contends that upon successful completion of three years of probationary service, in terms of the scheme embodied in the said Government Resolution, she acquired the right to be absorbed in regular service and to be treated as a deemed confirmed employee. However, while adjudicating the petitioner's case, the learned School Tribunal has proceeded on the basis of Section 5 of the MEPS Act in the context of due procedure for appointment, overlooking the special scheme applicable to the post of 'Shikshan Sevak' as notified under the said Government Resolution.

3. Upon perusal of the appointment order dated 30th December 2015, it is manifest that the petitioner's appointment was expressly made by invoking the Government Resolution dated 13th October 2000, and that she was appointed specifically as a 'Shikshan Sevak'. The scheme contained in the said Government Resolution lays down a distinct procedure and parameters for appointment of 'Shikshan Sevaks', which stands recognized as a special cadre governed by its own rules. Therefore, it was incumbent upon the learned School Tribunal to adjudicate the petitioner's claim in light of the said Government Resolution and the scheme framed thereunder about procedure to be followed for appointment.

4. The Government Resolution dated 13th October 2000, which creates the cadre of 'Shikshan Sevak', stipulates that upon completion of three years of continuous satisfactory service, the Shikshan Sevak is entitled to be absorbed in regular employment

as an Assistant Teacher. The nature of appointment as a 'Shikshan Sevak' is thus in the nature of probation leading to absorption, subject to satisfactory performance. In the present case, the Tribunal has failed to consider these specific facets and parameters applicable to the petitioner's appointment and service, thereby occasioning a failure of justice. Consequently, the impugned order suffers from a material error of law apparent on the face of the record, warranting interference under Article 226 of the Constitution of India.

5. In the circumstances, to ensure that the petitioner's statutory rights are appropriately adjudicated in accordance with the governing legal framework, the following order is passed:

ORDER:

- i. The impugned judgment and order dated 10th February 2025 passed by the learned School Tribunal, Kolhapur in Appeal Nos. 26 and 28 of 2020 are quashed and set aside.
- ii. Appeal Nos. 26 and 28 of 2020 are restored to the file of the learned School Tribunal, Kolhapur.
- iii. The learned School Tribunal, Kolhapur shall decide the said appeals afresh, strictly in accordance with the scheme and parameters laid down in the Government Resolution dated 13th October 2000 for appointment of shikshan sevak and in light of the observations made hereinabove.
- iv. The parties shall appear before the learned School Tribunal, Kolhapur on 21st April 2025 without fail.

v. The learned School Tribunal, Kolhapur shall endeavour to dispose of the petitioner's appeals expeditiously and, in any event, within a period of three months from the date of first appearance of the parties.

6. The writ petition stands disposed of in the aforesaid terms.
No order as to costs.

7. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)