

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

WRIT PETITION NO.4964 OF 2025

1. N.M.V. High School and College
Through its Principal
Having office at 21, Budhwar Peth
Bajirao Rasta, Pune -2.
 2. Shikshana Prasarak Mandali,
A trust registered under the provisions
of Bombay Public Trust Act,
Through its Secretary, having office
at Sharda Sabagruha, S.P. College
Campus, Tilak Road, Pune.
-Petitioners

Versus

1. Shri Bharat Dagadu Kshirsagar,
Age 60 years, Occ. Teacher,
Residing at Indraprasthan CHS Ltd.
Phase No.1, Plot No.400,
15 Number, Manjri Road, Hadapsar,
Pune-400 028.
 2. The State of Maharashtra,
Through Principal Secretary,
Higher and Secondary Education
Department, Mantralaya,
Mumbai-400 032.
(Summons to be served upon the
Learned AGP, Appearing for the State of
Maharashtra)
 3. Deputy Director of Education,
Deputy Director of Education,
Pune Division, Pune.
Having office at Central Building,
Pune.
 4. Education Officer,
Pune Zilla Parishad, Pune.
-Respondents

**WITH
WRIT PETITION NO. 5142 OF 2025**

1. Shri. Bharat Dagadu Kshirsagar,
Age :60 years, Occ. Teacher,
Residing at Indraprasthan Co-op Hsg
Ltd., Phase No.1, Plot No.400,
15 Number, Manjri Road, Hadapsar,
Pune - 411 028.Petitioner

Versus

1. The State of Maharashtra,
Through Principal Secretary,
Higher and Secondary Education
Department, Mantralaya,
Mumbai - 32.
[Summons to be served upon the
Learned AGP Appearing for the State of
Maharashtra]
2. Deputy Director of Education,
Pune Division, Pune,
Having office at Central Building,
Pune.
3. Education Officer,
Pune Zilla Parishad, Pune.
4. N.M.V. High School and College,
Through its Principal,
Having office at 21, Budhwar Peth
Bajirao Rasta, Pune – 2.
5. Shikshan Prasarak Mandal,
a trust registered under the provisions
of Bombay Public Trust Act,
Through its Secretary, Having office
at Sharda Sabagruha, S.P. College
Complex, Tilak Road, Pune 30.Respondents

Ms.Meena Doshi for the Petitioners Management in WP/4964/2025.

Dr.U.P.Warunjikar i/by Ms. Sonali Chavan for the Petitioner Employee in WP/5142/2025.

Mrs.Nisha Mehra, AGP for the Respondent-State in WP/4964/2025.

Mr. V.M. Mali, AGP for the Respondent/State in WP/5142/2025.

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

DATE : 29th APRIL, 2025

ORAL JUDGMENT (PER : RAVINDRA V. GHUGE, J.)

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

2. In the first Petition, the Management is the Petitioners before us. In the second Petition, the Employee is the Petitioner, having filed an independent Petition after suffering the same impugned order, as like the Management. Since the issue raised by both the Petitioners has its origin in the same order, we are deciding both the Petitions together.

3. For the sake of brevity, first Petitioners would be referred to as the Management and the second Petitioner would be referred to as the Employee.

4. In the first Petition, the Management has put forth prayer clauses (a) and (b), as under :

“(a) That this Hon’ble Court be pleased to issue a writ of certiorari under Article 226 of the Constitution of India or any other writ, order or direction of like or similar nature and be pleased to call for records and proceedings from the Respondent No.3 and after going through the same legality and propriety of the same, this Hon’ble Court may be pleased to quash and set aside the impugned order dated 7.5.2024 (at Exhibit “T” hereto);

(b) That this Hon’ble Court be pleased to direct the Respondent No.3 to grant approval to the proposal submitted by the Petitioners and be further pleased to direct the Respondent No.2 to release the pay of a full time teacher for the period 1.7.2014 to 31.5.2022 (pay for the part time post as already been disbursed to the Respondent No.1 for the said period)”.

5. The Employee has put forth prayer clauses (A) and (B), as under :-

“A. Be please to call for the record and proceedings of the order dated 07/05/2024 passed by the Respondent no. 2 and thereby, after going through the legality, validity and proprietary of the order dated 07/05/2024, be pleased to quash and set aside the order dated 07/05/2024 under Article 226 of the Constitution of India, 1950 and further direct the Respondent no. 2 to grant approval to the proposal made by the Respondent no. 4;

B. Be pleased to issue a writ of mandamus or any other writ in the nature of mandamus to direct the Respondent no. 2 to convert the service of the Petitioner from a part-time teacher to a full-time teacher from 15/06/2013 till May, 2022 on such terms and conditions as the Hon'ble High Court may deem fit”.

6. It is apparent from both these Petitions that there is a long history of litigation on the same issue revolving around the approval to the posting of the Employee from the part-time post to the full time post. The Employee was initially appointed on the part time post of Physical Training Teacher from 1st October, 2000. The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (the Act of 1977) and the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (the Rules of 1981), are applicable to the Management Institute.

7. Insofar as the first approval to the part-time appointment of the Employee, the said issue is put to rest and there is no controversy. When the Employee was not being granted approval as a full time Teacher, he preferred Writ Petition No. 5349 of 2022. Since it was informed that the proposal was pending adjudication, the Division Bench of this Court disposed off the said

Petition by an order dated 4th May, 2022, issuing a short direction for an early decision on the proposal, by 15th June, 2022. This Court was conscious of the fact that the Employee was to superannuate on 31st May, 2022. When the decision in pursuance to this direction was not arrived at, the Employee preferred Contempt Petition No. 576 of 2022, which is pending and is on the supplementary board today.

8. It is obvious that after the Contempt Petition was filed, the Deputy Director of Education, Pune Division, Pune, Mr. Rajendra Ahire, has delivered a single sentence order rejecting the proposal on the solitary ground that the Management never passed a Resolution appointing the Employee on the full time post. For clarity, we are reproducing the single sentence order, as under :

"श्री. क्षीरसागर भारत दगडू यांना अर्धवेळ पदावरून पुर्णवेळ पदी नियुक्तीबाबत ठराव करण्यात आलेला नसल्यामुळे, सदर नियुक्तीस मान्यता देता येत नाही. सबब प्रस्ताव अमान्य करण्यात येत आहे."

Translation would mean that the Employee cannot be granted an approval since the Management never passed a resolution placing the Employee on the aided establishment.

9. It is obvious from the above reproduced order that the Deputy Director of Education has categorically come to a conclusion that approval cannot be granted on a solitary ground that the Management has not passed a Resolution placing the Employee from the part time position to the full time position. The controversy revolves around this sole ground.

10. Ms. Mehra, the learned AGP, has vehemently opposed this Petition by virtue of the affidavit dated 23rd April, 2025 filed by Ms. Jyoti Parihar, Assistant Director in the office of the Deputy Director of Education, Pune Region, Pune.

11. After going through the contents of the affidavit, it is obvious that the Assistant Director is trying to supplant reasons to support a single sentence order. The order does not carry any reasons. In fact, the prelude to the impugned order dated 7th May, 2024 indicates that the said Officer has consumed one full page in narrating how the meetings were arranged, at what time the meetings were arranged and how the stakeholders participated. Details about the presence of the stakeholders are also mentioned. What has been done in the impugned order is apparently a formality

of enlarging the order without any analysis of the material before him. Not a single document from the entire record produced by the Management, was looked into, which is an indication of total non-application of mind on the part of the concerned Officer, who has not even taken the pains to write a reasoned order.

12. It is beyond debate that reasons in support of the conclusions, would be the soul of the decision indicating a judicious approach by an officer. An unreasoned order cannot be sustained since it does not indicate, either application of mind or appreciation of the material placed before the said Officer, which enables a prudent person to form an opinion. In this backdrop, the lengthy affidavit-in-reply filed by the Assistant Director, Ms.Jyoti Parihar, appears to be merely an attempt to supplant reasons into an order, which carries none.

13. Things become worse on the basis of the record. It is often said that '*documents would speak louder than words*' or '*humans may lie, but documents will not lie*'.

14. Page 29 of the Petition paper-book before us is apparently the Resolution No. 95 passed by the Management in its

School Committee Meeting held on 11th September, 2015. The wording is clear that the Employee has been appointed on full time post of Assistant Teacher in 'Education' subject. Another Employee Sau.Neeta Patwardhan was appointed as a part time Teacher for the German language subject. A note below the said Resolution indicates, as under:

"सदर ठराव इतिवृत्त पुस्तक पान क. ८० वर चिकटविलेला आहे".

Translation is that the resolution documents are appended at page 80 of the proposal compilation tendered to the said officer for approval.

15. Page 28 of the Petition paper-book indicates the Resolution as well as the page number on which it was annexed to the compilation that was delivered to the Deputy Director with a covering letter dated 26th April, 2017. There is no dispute that the said Officer received this compilation of documents. Yet, the said Officer is boldly canvassing before us that firstly, he never received a Resolution and secondly, if the Resolution referred to is the one at page No. 29 in this Petition paper book, the same is not happily worded. Moreover, the said Officer has not written to the Management that the Resolution is missing.

16. From the pleadings before us by the Management as well as the Employee, it appears that the concerned Officer was not in a mood to read the documents and the Management was not able to convince him. Finally, the Management succumbed and prepared a fresh Resolution as per the language required by the Deputy Director and the copy of the same, dated 30th April, 2024, was tendered to the said Authority. However, it was prior thereto that he had passed the impugned order refusing to grant approval on the solitary objection that there was no Resolution.

17. The learned Advocates for the Management and the Employee submit that the conduct of the Officer was to make these two (the Management and the Employee), to run from pillar to post.

18. We find that to some extent, both the learned Advocates are right in their submissions. Any prudent person would have passed an order appreciating the Resolution placed before him in whatever form, as long as it appeared as a resolution, or should have made it clear to the Management as to the manner in which the Resolution should have been drafted. Merely because the officer

was not happy with the language, could not have been a ground to reject the proposal causing agony and anxiety to the Employee.

19. It is well settled that the ‘content’ is to be seen and not the ‘form’. To say the least, we not only disapprove of the manner in which the officer has dealt with this case, but also that it has caused manifest inconvenience and grave prejudice to the Employee, who superannuated on 31st May, 2022 and is without pension for the last 3 years, only because the approval was not granted. We might be justified in using the word that the concerned Officer has being ‘heartless’ while dealing with this case.

20. We find that Resolution No. 95 along with the entire details of the ठराव इतिवृत्त पुस्तक was enough material before the concerned Authority to deal with the proposal and pass an appropriate order. There is no other objection raised by the said Authority. Not even once, the Officer has voiced any other objection.

21. Normally in such matters, the Court remits the matter to the concerned Authority for a fresh decision. Considering the

experience of the Management, as well as that of the Employee qua the said Officer, we are not inclined to send the Employee back to the doorstep of the said Officer. Justice is to be demanded as a matter of right and no citizen should be made to beg for it. We are, therefore, deciding the issue in these Petitions.

22. Having been convinced that the Resolution indicates the decision of the Management and it's decision of posting the Employee to the post of full time Assistant Teacher, **these Writ Petitions are allowed.** The impugned order dated 7th May, 2024 is quashed and set aside. The approval to the full time Assistant Teacher appointment of the Employee shall be made effective from the date of his appointment on the full time post. Consequentially, prayer clause (b) is granted.

23. A formal order of granting approval in the light of the above shall be issued by Respondent No.3, within a period of 15 days from today. Thereafter, the Management would forward the bills as per the scales admissible to the Employee, within a period of 15 days from the date of issuance of the formal order of approval. The concerned Authority would sanction the said bills, within a

period of 15 days, thereafter. We grant simple interest at the rate of 6% per annum from the date the payment was due. This amount would also be calculated by the Management and be added in the bills which would be cleared by the concerned Authority.

24. The pension papers would be prepared by the Management and would be forwarded to the concerned Authority which would transfer the same to the Office of the Accountant General, within a period of 15 days from the date of receipt of the pension proposal. The Accountant General would clear the proposal, within a period of 15 days, thereafter. In short, the arrears of the pension, with the interest component, as well as the first regular monthly pension shall be payable to the Employee in the month of August, 2025.

25. We direct the Principal Secretary of the State of Maharashtra to commence a responsibility fixing exercise for all that has happened in this case leading to the delay and payment of interest to the Employee. Once the responsibility is fixed by following the due procedure laid down in law, the interest component should be recovered from those Officers who have

contributed to the delay. Needless to state, we would not express any opinion and we would leave it to the procedure to be followed by the Principal Secretary, Higher and Secondary Education Department, Mantralaya, Mumbai and the wisdom of the Principal Secretary, to draw his own conclusions.

26. Let this exercise be completed, within a period of four months from today. Let a compliance report be tendered before this Court, on 30th September, 2025.

27. Rule is made absolute in the above terms.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)