

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.508 OF 2025

Pravin Fatima Iftekhar Hasan Sayed .. Petitioner
Vs.
State of Maharashtra,
Through Department of School Education & Sports and Ors. .. Respondents

Mr. Swaraj Jadhav, Advocate for the Petitioner.
Mr. Manish Upadhye, Assistant Government Pleader for the Respondent-
State of Maharashtra.
Mr. Kishor Patil with Ms. Sarita Sonawane, i/by Ms. Aarti Bhide,
Advocates for Respondent No.8.

**CORAM : SHREE CHANDRASHEKHAR &
MANJUSHA DESHPANDE, JJ**

DATE : 23RD JULY 2025.

PER SHREE CHANDRASHEKHAR, J. :-

The petitioner has approached this Court under Article 226 of the Constitution of India, being aggrieved by the show cause notice dated 25th October 2019 issued by the respondent no.5-Education Inspector (North Division) and the order dated 9th September 2020 passed by the Education Inspector (North Zone), pursuant thereto a communication was made to the petitioner on 23rd September 2020 for recovery of Rs.2,53,814/-.

2. Briefly stated, the petitioner was appointed on the post of “Assistant Teacher” under the respondent no.7-High School which according to her is a minority institution and her services were approved with effect from 18th September 1998. The petitioner has pleaded that she made an application seeking prior approval from the Competent Authority in terms of Rule 25(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (*for short, “Service Rules”*) and such approval was granted by the Headmaster of the respondent no.7-High School on 13th March 1999. Pursuant to such approval granted by the Headmaster of the High School, the petitioner pursued her Bachelor’s degree and was

awarded the Bachelor of Arts degree by the University of Mumbai on 27th December 2001. Later on, the petitioner was allowed to attend B.Ed. course through correspondence under the permission granted by the Headmaster of the High School on 30th June 2009 and that degree was awarded to her in 2011. About eight years thereafter, the High School issued a show cause notice to the petitioner seeking her clarification as to how she could pursue the further academic course while in service. In response thereto, the petitioner submitted her reply on 27th September 2019 but an adverse decision was taken against her and she was directed to deposit Rs.2,53,814/- by the communication dated 23rd September 2020 (Exhibit-Z) on the ground that she was not entitled for salary for the period between June 1998 to May 2001. The petitioner has further pleaded that the Assistant Education Inspector was directed to visit the respondent no.7-High School and verify the school records but just one visit / inspection was carried out by the Assistant Education Inspector and he never visited the school for inspection of the records again, as directed by the Education Inspector vide communication dated 26th November 2019. The petitioner has therefore questioned the legality of the impugned order dated 9th September 2020 and raised manifold grounds as pleaded in the writ petition.

3. This writ petition has been opposed by the State respondents and the respondent no.8 who made a complaint against the petitioner that she was not entitled for salary for the period between June 1998 to May 2001 while she was pursuing her Graduation course. Mr. Swaraj Jadhav, the learned counsel for the petitioner has referred to the provisions under Rule 25 of the Service Rules to contend that no reason has been assigned in the order dated 9th September 2020 vide Exhibit-“V” to the writ petition, while holding the petitioner disentitled to receive the salary for the aforementioned period. On the other hand, Mr. Manish Upadhye, the learned Assistant Government Pleader would submit that the petitioner

cannot claim that she had been performing her duties at the respondent no.7-High School during the period from June 1998 to May 2001, when she was pursuing an academic course under the Mumbai University. Mr. Kishor Patil, the learned counsel for the respondent no.8 has also supported the impugned order dated 9th September 2020 by contending that there is a serious doubt about the genuineness of the letter of approval dated 13th March 1999 and an enquiry in this regard may be ordered.

4. Rule 25 of the Service Rules provides as under :-

“25. Obtaining Higher or Additional Qualifications :-

(1) An employee other than the Head shall obtain previous permission of the Head and the Head shall obtain previous permission of the Management in case he intends to obtain higher or additional qualifications by joining courses for which regular attendance is necessary. In other cases, he shall intimate the Head or the Management. The Head or Management may grant such permission provided the normal work of the school does not suffer. The employee so permitted cannot claim as a matter of right any kind of leave for the preparation of examination for obtaining such qualification. He shall, however, be eligible to get leave due and admissible to him for the purpose of appearing for the examination including the period required for journey, if any, for that purpose.

(2) The provisions of sub-rule (1) shall not apply in the case of professional courses, such as B.Ed. or D.Ed. which are prerequisites of a teacher appointed by granting relaxation of qualifications prescribed in Schedule “B” and also in cases of any similar course organised by the Department, if the employee intimates immediately after

applying to the Head or the Management that he intends to join the course.”

5. On a perusal of the order dated 9th September 2020, this Court gathers that the Education Inspector, Greater Mumbai, North Zone has passed the said order on a premise that while pursuing the academic course in Bachelor of Arts under the University of Mumbai and B.Ed. course from the Yashwantrao Chavan Maharashtra Open University, Nashik, the petitioner could not have discharged her duties as “Assistant Teacher” with the respondent no.7-High School. We have also glanced through the materials on record and find that no doubt was raised by the Education Inspector to the approval dated 13th March 1999 granted by the Headmaster of the respondent no.7-High School for pursuing the higher education in terms of Rule 25(1) of the Service Rules. This is also not explained by the respondents in their counter affidavits how the working of the respondent no.7-High School was adversely affected because the petitioner was pursuing a higher degree course. The learned counsel for the petitioner would submit that the ground indicated in the order dated 9th September 2020 for recovery of salary paid to the petitioner from June 1998 to May 2001 and striking of the Bachelor’s degree cannot be countenanced in law because a specific provision has been made in this regard under Rule 25 of the Service Rules.

6. The order dated 9th September 2020 did not record a finding on adversely impacting the working of the respondent no.7-High School while the petitioner was pursuing Bachelor’s course during June 1998 to May 2001, and, therefore, the said order has become vulnerable and liable to be quashed. Accordingly, the order dated 9th September 2020 passed by the Education Inspector (North Zone) is set aside. The matter is remanded back to the Education Inspector, Greater Mumbai, North Zone for a fresh consideration on the issues of recovery from the petitioner and striking of Bachelor’s degree from his service record. While doing so, the

Education Inspector shall keep in mind the provisions under Rule 25 of the Service Rules for obtaining higher educational qualification / additional qualification by an employee and the other applicable Government Circular / Resolution etc.

7. Writ Petition No.508 of 2025 is disposed of.

[MANJUSHA DESHPANDE, J.]

[SHREE CHANDRASHEKHAR, J.]