



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2499 OF 2017

PETITIONERS :- 1) Pravarsen Shikshan Sanstha Nagpur through its Secretary, Milind Laxman Balkhande, aged 42 years, office at Patrakar Sahanivas, Civil Lines, Nagpur.

2) Dr. L.D. Balkhande College of Arts and Commerce College, (earlier P.S.S. College of Arts and Commerce), Pauni through its Principal, Dr. Jaykishan S/o. Rameshwar Santoshi, aged 55 years, R/o. Pauni, Dist. Bhandara.

..VERSUS..

RESPONDENTS :- 1) State of Maharashtra through its Secretary, Department of Higher and Technical Education, Mantralaya, Mumbai -32.

2) The Director of Higher Education, State of Maharashtra, Central Building, Pune-1.

3) The Joint Director of Higher Education, State of Maharashtra, Nagpur Division, Civil Lines, Nagpur.

4) Rashtrasant Tukadoji Maharaj Nagpur University, Nagpur, through its Registrar, Civil Lines, Nagpur.

Mr.B.G. Kulkarni, Advocate for Petitioners.
Ms M.H. Deshmukh, A.G.P. for the Respondents/State.

CORAM : **ANIL S. KILOR AND**
VRUSHALI V. JOSHI, JJ.

DATE : **14/08/2025**

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.

2. **Rule.** The Rule is made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.

3. The issue involved in the present petition demonstrates the arbitrary approach of the authorities of the State. This Court twice has expressed dissatisfaction about insensitive attitude of the authorities of the State.

4. In this case, where the State permitted the petitioners/society to teach two subjects namely “Ancient Indian History” and “Marathi Literature” in the petitioner No.2-College, however, the condition was put not to appoint any teachers to teach these subjects but these subjects be taught by the existing teachers.

5. The respondent/State is not disputing in any of the affidavits that these are specialized subjects. At the same time, the State is not justifying the reason for not permitting the petitioners to appoint teachers to teach such specialized subjects, except for the reason that there would be financial burden on the government.

6. This Court on 15.11.2022, recorded its *prima facie* observation which read thus :-

“Prima facie, the rationale behind requiring the petitioners not to appoint teachers to teach the aforesaid subjects and imposing a condition that the said subjects would be taught by the members of the existing staff is not understood. The subjects of Marathi Literature and Ancient Indian History are specialized subjects and unless the staff teaching such subjects is duly qualified and available at the College, this condition cannot be successfully applied”

7. Thereafter, on 18.04.2024, this Court by referring the order dated 15.11.2022 granted one last opportunity to State to correct its stand and make a statement before this Court.

8. However, there was no change in the approach of the government and therefore, this Court on 26.11.2024, passed the following order :-

“We are aghast at the insensitive attitude of the State in the matter of imparting education to its citizens. The present case is the classic example to illustrate. The petitioner institution by the order dated 28-7-1993 (Page No.21) was granted permission to start a course in Marathi Literature. The condition for such permission, being that there would be minimum 24 students available for taking education and no new teacher would be permissible to be appointed. The students were directed to be imparted education in the said subject by the existing teachers, so that no financial burden would come on the State. By the subsequent order dated 03-8-1993 (Page No.23) permission was granted to start a course in the subject Ancient Indian History again with the condition that no new teacher would be appointed. When these are special subjects which can be taught only by teachers, who would be having P.G. Degrees in such specialized subjects, we are unable to understand the insistence on the part of the State that such specialized subjects would be taught by the existing teachers without ensuring that such existing teachers have the qualification to impart education in such specialized subjects. The right of a citizen, to have available variety of subjects, in which he can undertake education, as guaranteed under Article 21 of the Constitution of India, would also include ensuring the availability of specialized teachers to teach such specialized subjects. The same cannot under a spurious plea of financial burden be thwarted by imposing the condition that such specialized subjects should be taught to the students by teachers who are not qualified. This would infact indicate abject failure on the part of the State to honor its constitutional obligations qua the citizens, of imparting quality education to such citizens. Realizing this position, when the matter came to this Court in Writ Petition No. 3370/2015, this Court by its judgment dated 12-4-2016 had quashed the refusal to consider grant of permission to appoint a teacher for the aforesaid specialized subject and directed the respondents to reconsider the issue, inspite of which by the impugned communication dated 18-10-2016 the same stand has been reiterated again (Page No.56). This, in our considered opinion, indicates the absolute insensitivity of the officials of the State, to the subject in issue as they expect persons with no education qualification in specialized subjects to impart education to the students, who have permitted to be enrolled to undergo teaching in specialized subjects. Much can be said about the cavalier attitude of the State vis-a-vis the citizens and the failure of the duty of the State to impart quality education. We,

however, refrain from doing so for the present with a direction to the learned Additional Government Pleader to take instructions in this regard from the concerned authorities failing which, we would be constrained to record their conduct and insensitive attitude and issue appropriate directions.”

9. In the above referred order dated 26.11.2024, this Court has expressed that such approach of the State is in violation of Article 21 of the Constitution of India and despite the same, even today the petition was strongly opposed and tried to justify how the stand of the Government is just and proper.

10. We are surprised to note that without bringing any justifiable reason on record, in not allowing the petitioner to appoint the teachers for permitted specialized courses, such request is being opposed. This is nothing but an adamant approach of the authorities which is in violation of Article 21 of the Constitution of India, as observed by this Court in the order dated 26.11.2024.

11. In that view of the matter, as the respondents failed to take necessary and correcting steps in this matter, even after the repeated opportunity, we pass the following order :-

- i) The writ petition is **allowed**.

ii) The respondents are directed to grant permission to the petitioners to appoint teachers for the subject “Marathi Literature” and “Ancient Indian History” on grant-in-aid basis by modifying the permission orders dated 28.07.1993 and 03.08.1993.

iii) This order will come in force with prospective effect.

Rule is made absolute in above terms. No costs.

(VRUSHALI V. JOSHI, J.)

(ANIL S. KILOR, J.)

C.L. Dhakate