



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

WRIT PETITION NO. 6601 OF 2016

(Sau. Archana Surendra Wankhede and ors Vs. The State of Maharashtra and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P.S. Kshirsagar, Advocate for petitioners.
Mr. A.M. Joshi, AGP for respondent Nos. 1 to 3/State,
Mr. V.A. Savarkar, Advocate for respondent No. 4.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATED : 12-03-2025

Mr Kshirsagar, the learned Counsel for the petitioner submits that the issue in question which is raised in the petition, is to the effect that the teachers working in Zilla Parishad schools, which schools stood transferred in an urban area on account of expansion of the area of the Municipal Council, were entitled for taking into consideration the services rendered by them with the school run by the Zilla Parishads for the purpose of calculating seniority, as spelt out by the GR dated 13.8.1990 which issue was already decided by the Principal Seat of this Court in ***Sau Chhaya Pandurang Thatte and Ors Vs. Pune Municipal Corpn, Writ Petition 7135/2019*** by the judgment dtd 1.10.2021 by holding as under:

“52. A conjoint reading of Section 493 which provides for transitory provisions read with Clause 5 of Appendix IV clearly indicates that the service rendered by the officers and servants before in the employment of the Municipality or the local authority immediately before the appended date shall be the officers and servants employed by the Corporation under the said Act and the services rendered by such officers and servants before the appointed date shall be deemed to be service rendered in the service of the Corporation. The second proviso to Clause 5 of Appendix IV empowers the Corporation to

discontinue the service of any officer or servant who in its opinion is not necessary or suitable to the requirements of the municipal service, after giving such officer or servant, such notice as is required to be given by the terms of his employment. Such discontinued employee shall be entitled to such leave, pension or gratuity as he would have been entitled to take or receive on being invalided out of service if this Act had not been passed.

53. It is not the case of the respondent no.1 or respondent no.3 that service of any of these petitioners were discontinued by the respondent no.1 under second proviso to Clause 5 of Appendix IV on the ground of not being suitable to the requirements of the municipal service or on the ground that their services were not necessary for the respondent no.1-Corporation.

54. In our view, the said provision under Section 493 of the Maharashtra Municipal Corporations Act read with Clause 5(c) of the Appendix IV would also apply in case of en bloc transfer of the property forming part of such village which were transferred to the Municipal Corporation along with the schools, employees and the students. In our view, the seniority of each of these petitioners thus will have to be counted from their initial date of appointment in the schools run by Zilla Parishad and not from the date of their transfer in the schools run by the respondent no.1-Corporation. The impugned order showing the petitioners below the then existing employees of the respondent no.1 by considering the date of their transfer in the schools run by the respondent no.1 as the date of appointment is totally illegal and contrary to Section 493 read with Clause 5(c) of Appendix IV thereto”.

2. Challenge to the same has been turned down by the Hon'ble Apex Court in ***Maharashtra Rajya Padvidhar Prathamik Shikshak va Kendra Pramukh Sabha Vs. Pune Municipal Council, 2023SCC OnLine SC 291***, by upholding the same. It is therefore, contended that the issue which is involved in the present petition is no longer res integra but is

covered by the aforesaid decisions.

3. There is no dispute, that above is the subject matter of the present petition on account of which the petition is disposed off, in terms of what has been held in ***Sau Chhaya Pandurang Thatte and Ors Vs. Pune Municipal Corpn*** (supra) as affirmed by the Hon'ble Apex Court in ***Maharashtra Rajya Padvidhar Prathamik Shikshak va Kendra Pramukh Sabha Vs. Pune Municipal Council*** (supra).

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

Belkhede