



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

WRIT PETITION NO. 6410 OF 2024

Shri Jaiprakash Baburao Gaidhane,
Aged about 56 years, Occ.- Service,
R/o. Ravindranath Tagore Ward,
Pandhrabodi Road, Near Railway
crossing, Bhandara, District Bhandara.

.... PETITIONER

// VERSUS //

- 1) **The State of Maharashtra,**
through its Secretary, School
Education & Sports Department,,
Mantralaya Mumbai-400032.
- 2) **The Director of Education,**
Secondary & Higher Secondary,
State of Maharashtra, Pune.
- 3) **The Divisional Commissioner,**
Nagpur Division, Nagpur.
- 4) **Zilla Parishad, Bhandara,**
through its Chief Executive Officer.
- 5) **The Education Officer,**
(Primary), Zilla Parishad, Bhandara.

.... RESPONDENTS

Mr. A. Z. Jibhkate, Advocate for Petitioner.
Mr. A. M. Kadukar, AGP for Respondent Nos.1 to 3.
Mr. M. S. Totre, Advocate for Respondent Nos.4 and 5.

**CORAM : MRS. M. S. JAWALKAR AND
RAJ D. WAKODE, JJ.**

DATE ON RESERVING THE JUDGMENT : 08.09.2025.
DATE ON PRONOUNCING THE JUDGMENT : 16.09.2025.

JUDGMENT : (Per – SMT. M. S. JAWALKAR, J.)

1. Heard. **Rule.** Rule is made returnable forthwith. Matter is taken up for final hearing at the stage of admission by consent of the parties and at the request of parties.

2. The Petitioner, by this Petition, challenging the final Seniority List of trained “Graduate High School Teachers” published on 23/09/2024 by Respondent Nos. 4 and 5 - Zilla Parishad, Bhandara through its Chief Executive Officer and the Education Officer (Primary), Zilla Parishad, Bhandara, respectively.

3. The Petitioner submitted that he came to be appointed in the post of “Assistant Teacher” (Middle School) by the order dated 19/12/1988 by Respondent No.1 and joined his duties on 21/12/1988 at Zilla Parishad High School, Sakaritola. At the time of his appointment, he possessed the qualifications of S.S.C., H.S.C., D.Ed. (2 years course) and Sahitya Sudhakar, which is treated as equivalent to graduation.

4. It is further contended by the Petitioner that the Respondent No.4 vide order dated 12/05/2004 extended benefit of Trained Graduate Teacher pay-scale with effect from 30/06/1995 in compliance of the order passed by this Court in W.P. No. 6236/2004, dated 23/04/2004, thereafter issued promotion/upgradation of his post as “High School Teacher” at Zilla Parishad High School and Junior College, Andhalgaon, Tahsil Mohadi, District Bhandara by order dated 14/05/2012.

5. The Petitioner, further with the permission of his Superior Officer, improved his qualification i.e. B.Ed. from Kendriya Hindi Sansthan, Agra in November, 2001, B.Ed. from Y.C.O.U., Nasik in 2003, M.A. in Marathi in First Division on 24/06/2019 and M.A. in English Literature in First Division on 28/08/2021 from Y.C.O.U., Nasik. Therefore considering his improved qualification and unblemished service record, the Respondent No.4 upgraded/promoted the Petitioner as an “Upper Division Teacher” to teach IXth and Xth standard classes.

6. It is further submitted by the Petitioner that on 02/01/2016, the Respondent Nos. 4 and 5 prepared a separate

Seniority List of 'Middle School Teachers' and the 'High School Teachers' and continued to include the name of Petitioner and his other associates in the 'Middle School Teachers', therefore, they made a grievance to include their names in the Seniority List on the basis of date of acquiring B.Ed. qualification since categories of the employees specified under 'Annexure-45' of the Secondary School Code are based upon qualification and not on the basis of pay-scale. Furthermore, on 08/12/2023, the Respondent No.4 published Seniority List of 'High School Teachers' in which, name of the Petitioner and his other associates were included though said seniority list was of the 'Trained Graduate Teachers' having qualification of B.A., B.Sc., M.Sc., B.Ed. and placement was given in the seniority list from the date of their initial appointment, whereas the placement of the Petitioner in the said list was on the basis of from the date of his upgradation on the post of 'High School Teacher' ignoring his date of acquiring B.Ed. training qualification.

7. The Petitioner further submitted that he made a representation to the Respondent No.5 through his Head-Master, in which, specifically pointed out that the placement in the category of the teachers not depend upon the pay-scale but it is on the basis of the date of acquiring B.Ed. training qualification and request was

made to correct the same. The Respondent Nos. 4 and 5 failed to pay any heed to the request of the Petitioner and therefore, he made a detail representation to the Respondent No.3, in which specifically pointed out how the Respondent Nos. 4 and 5 are committing illegalities in maintaining the Seniority List of the 'Middle School Teachers' and 'High School Teachers', ignoring the date of acquiring B.Ed. qualification. In response to the same, the Respondent No.4 was directed to maintain the seniority list and give placement to the Petitioner as per the Rules and submit the report.

8. It is further submitted by the Petitioner that the Respondent Nos.4 and 5 on 23/09/2024, published a Seniority List of the 'High School Teachers' and in the said seniority list, the Petitioner has been given placement from the date of his upgradation to the 'High School Teacher' without taking into consideration date of acquiring the B.Ed. training qualification. On 25/09/2024, the Petitioner raised objection on the list, which was rejected stating it to be erroneous and unsustainable.

9. The learned Counsel for the Petitioner relied on the following citations :

- (i) ***Narendra Ishulal Rahangdale Vs. State of Maharashtra and others***, reported in ***2005(3) Mh.L.J. 567***;
- (ii) ***Saramma Varghese Vs. Secretary/President, S.I.C.E.S. Society and others***, reported in ***1989 Mh.L.J. 951*** and
- (iii) ***Mrs. Gaur Pratibha (Ms. Thakur Pratima Jagatsingh) & Ors. Vs. The State of Maharashtra & Ors.***, reported in ***2020(1) ALL MR 311***.

10. As against this, the Respondent Nos. 4 and 5 submitted that the Seniority List is not a select list or a list of teachers qualified for promotion, but only reflects seniority based on the date of induction as 'High School Teachers'. For promotion to Head Master, a Committee constituted by the Chief Executive Officer of Zilla Parishad - comprising the CEO, Dy. CEO (General), Education Officer, District Social Welfare Officer, and Chief Accounts & Finance Officer, prepared a shortlist of eligible teachers. The list is made according to actual vacancies, usually three times the number of vacant posts. This process is separate from the seniority list. The Respondents further submitted that the Petitioner was not promoted but only posted as High School Assistant Teacher (Higher Grade) in 2012, without change in pay. The seniority is determined by date of entry into a cadre after acquiring the required qualifications, not from initial

appointment. Since the Petitioner obtained eligibility later, his seniority was rightly fixed from 14/05/2012.

11. The Respondent Nos.4 and 5 further contended that Annexure-45 of the Secondary School Code applies only to non-government schools, while the Petitioner is governed by Zilla Parishad Rules (1967) and Maharashtra Civil Service Seniority Rules (1982). The categorization of teachers and qualifications prescribed under Government Resolution dated 07/02/2019 also supports this. It is further submitted by the Respondents that the Government Resolution dated 01/08/2019 lays down the procedure for preparation of seniority lists and promotions. Clause 3.1.3 provides that promotions shall be made only against existing or anticipated vacancies in the selection year, while Clauses 5.1 and 5.2 prescribe the principles for fixing seniority. The seniority list dated 23/09/2024 has been prepared strictly in accordance with the said Government Resolution.

12. The Respondents further rely upon the Maharashtra Zilla Parishad and District Services (Recruitment) Rules, 1967. Appendix IV, Part II, Rule 50 of these Rules specifies the required qualifications and the method of appointment to various educational posts,

including that of Head Master in secondary schools. Since the Petitioner acquired the B.Ed. qualification only in 2003 and was inducted into the cadre of High School Teachers on 14/05/2012, his seniority has been rightly fixed from that date. It is also the contention of the Respondents that the reliance placed by the Petitioner on 'Annexure-45' of the Secondary School Code is misplaced. The said provision applies only to non-government schools, whereas teachers in Zilla Parishad schools are governed by the 1967 Rules and the Maharashtra Civil Service (Regulation of Seniority) Rules, 1982. Accordingly, the Petitioner cannot claim seniority from the year 2003 under the Secondary School Code. Hence, the placement of Petitioner at Sr. No. 96 in the list dated 08/12/2023 is correct, and the writ petition is devoid of merit and needs to be dismissed.

13. The learned Counsel for the Respondent Nos.4 and 5 relied on following citations :

- (i) ***Ku. Bhawana Vs. State of Maharashtra & Ors.***, reported in ***2019(1) ALL MR 954 (S.C.)*** and
- (ii) ***Writ Petition No. 1891/2022, Maroti Bithoba Balpande Vs. Divisional Commissioner, Nagpur & Ors.***, dated ***01/02/2024***.

14. Heard both the parties at length. Perused the document placed on record and considered the citations relied on by both the parties.

15. For proper understanding of the issue, it would be appropriate to look into certain definitions under Secondary School Code. Chapter-I, Clause-4 provides a definition of High School, which reads as under:

“4. A High School :

Is a Secondary School, which provides a course in general education leading to the Secondary School Certificate Examination (S.S.C. Examination) or an equivalent examination recognized by Government at the end of Standard X. Such a school may provide instruction from std. V or above but not beyond Standard X.”

In clause 17, the Management is defined as under:

“17. The Management :

Means an association, Body or a person having a general and financial control over a school. In case of a Government Institution, it means the Government Department concerned and in the case of schools managed by local bodies, a zilla Parishad, a Municipal Corporation or a Cantonment Board having general and financial control over a school.”

16. Thus, the contention of the respondents that School Code is not applicable to the Zilla Parishad is contrary to the provisions of Secondary School Code.

17. Annexure-45 of the Secondary School Code provides the norms while fixing the seniority list of teachers in the non-government secondary schools which reads thus -

**“Annexure (45)
Seniority List of Teachers in the Non-Government
Secondary Schools**

1. Government has decided to lay down the following revised guidelines for fixation of seniority of teachers in non-Government secondary and higher secondary schools.
2. For the purpose of fixation of seniority of teachers in non-government secondary and higher secondary schools the following categories of teachers in the ladder of seniority should be taken into account.

Category A: This category is applicable to:

**Higher Secondary School only
M.A.,II/M.Sc.,II/ M.Com., II/M.Sc. (Agriculture), II,
B.T./B.Ed.**

The teachers of the above qualification appointed in higher secondary schools and teaching a subject offered by them at their Master's Degree Examination to the top standard of the higher secondary school.

Category B: Holders of:

M.A./M.Sc., B.T./B.Ed., or its equivalent; or
B.A./B.Sc., B.T./B.Ed., or its equivalent; or

B.A./B.Sc., S.T.C./Dip. Ed./Dip. T. (one-year Course) with 10 years post S.T.C., etc., service.

Category C: Holders of:

B.A./B.Sc., S.T.C./Dip. Ed./Dip. T. (one-year Course) or its equivalent.

Category D: Holders of:

S.S.C., S.T.C./Dip. Ed./Dip. T. (one-year Course) or its equivalent.

Category E: Untrained Graduates or holders of equivalent qualifications.

Category F: Untrained Matriculates or holders of equivalent qualifications.

Category G: The rest.

Note 1:

Note 2:

Note 3: Seniority of M.A. (M.Sc.) M.Com., B.Ed., teachers would be common and their seniority would be determined on the basis of length of service after B.Ed., in the school or schools of the same Management. There would not be a separate category 'A' for determining the seniority of the teachers in Higher Secondary Schools.”

18. It further provides that for the purpose of making appointments to the full time headmaster and supervisor in SSC level schools, MA, II/Msc, BT/B.Ed teachers should not be considered as belonging to a higher category of seniority (Category-A). They should be considered as part of teachers in Category-B, the *inter se* seniority of teachers in Category-B (to be considered while making

appointment to the post of headmaster and supervisor in SSC level schools) being determined in accordance with provisions of para-3 above.

19. The petitioner obtained B.Ed.Degree from Kendriya Hindi Sansthan, Agra in November, 2001 and from Y.C.O.U., Nashik in 2003. In view thereof, he is claiming his entry in Category-B since 2001. The learned counsel for the petitioner relied on **Narendra Ishulal Rahangdale Vs. State of Maharashtra and others** (*supra*), wherein it is held that the seniority of teachers working in Zilla Parishads Schools are governed by the Secondary School Code. It is held in the said judgment as under :

“The Secondary Schools Code provides for grant of recognition to the schools and release of grant-in-aid including salary and non-salary grants. Schools administered by the Zilla Parishad are admittedly recognized schools receiving grants from the State exchequer. The School Code proceeds to regulate admissions of students, examinations, curriculum, text books, fees, school terms, holidays, school hours and amongst other things also lays down condition of service of the employees including the eligibility criteria for appointment of Teachers, educational qualifications, teaching/training qualifications and maintenance of inter se seniority amongst the teaching members of the staff. Annexure-45 specifically provides for the criteria for preparing seniority list of Teachers in non Government schools and in case it is held that the Secondary Schools Code is not applicable to the schools administered by the

Zilla Parishad or local authorities, then the same would result in creating a vacuum and the above referred matters cannot be regulated by any other service condition such as MCSR. If and in case it is held that the provisions of the Schools Code has no application to the schools administered and managed by the local authorities, then the said schools would not be capable of being run on a uniform basis i.e. on the same lines on which other schools are being run which are administered by the private management. The very purpose of introducing Schools Code was to have a unified Code for recognition and grant-in-aid and other matters related to the day to day working of the Schools. Therefore the seniority of the Teachers working in the schools managed by the Zilla Parishads will be governed by the provisions of the said Code. As such, the date of acquiring training qualifications is relevant date for the purpose of determining seniority.”

20. The learned counsel for the petitioner also placed reliance on **Saramma Varghese Vs. Secretary/President, S.I.C.E.S. Society and others** (*supra*), wherein it is held as under:

“*Held*, that higher pay scale is not relevant for the purpose of fixation of seniority of teachers. A teacher with B.A. B.Ed. degree wherever he teaches will take his place according to the date of appointment and continuous officiation. The petitioner and the respondent No. 5, graduate teachers with B.Ed. were in the same category 'B' of Annexure 45 of the Secondary School Code which is identical to category C in Schedule F to the Maharashtra Employees of Private Schools (Conditions of Service) Rules. Note 3 of Annexure 45 which has been in existence at all times as a part of the Secondary Schools Code before 1971 and after 1971 is consistent with the guidelines laid down in Schedule F to the Rules. All teachers who fall in the same category rank together. Thus whether it is the Secondary Schools Code or the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 or the

Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, identical considerations determine the seniority of teachers. The inter se seniority of teachers falling in any single category has to be determined on the basis of continuous service in that category in a single school or schools of the same management. For the purpose of appointment as Head Master or Supervisor in the S.S.C. level schools, M.A., M.Sc., B.T., B.Ed., teachers should not be considered as belonging to higher categories of seniority but they should be considered as a part of category 'B' for the purpose of inter se seniority. The Act, the Rules or the Secondary Schools Code have made the petitioner and the respondent No. 5 equal in all respects for the purpose of fixation of seniority for the simple reason that they fall in the same category-graduate teachers with B.Ed. The Act, the Rules or the Code do not make any distinction based on the Division of the School in which the teacher teaches. The contention that the respondent No. 5 was senior to the petitioner because the former taught the higher division was not correct. Such a distinction is alien to the Rules and the Act. Once a person is a graduate teacher with B.Ed. degree she rank in seniority according to the date of continuous officiation. The appointment in a higher scale of pay or possession of Post-Graduate Degree is not relevant.”

21. The learned counsel for the respondent Nos.4 and 5 relied on judgment of **Ku. Bhawana Vs. State of Maharashtra & Ors.** (*supra*). In the said judgment also, there is no dispute over the proposition laid down in **Saramma Varghese Vs. Secretary/ President, S.I.C.E.S. Society and others** (*supra*).

22. Insofar as reliance placed by the learned counsel for the respondents in the case of *Maroti Bithoba Balpande Vs. Divisional Commissioner, Nagpur & Ors. (supra)* is concerned, the said petition was withdrawn to seek appropriate remedy before Divisional Commissioner. There is no any law laid down in the said matter.

23. The learned counsel for the petitioner placed reliance on **Mrs. Gaur Pratibha (Ms. Thakur Pratima Jagatsingh) & Ors. Vs. The State of Maharashtra & Ors. (supra)**, wherein, it is held by this Court as under:

“Among Primary Teachers, the seniority is counted from the date of the teacher's joining service. On the other hand, among the Secondary Teachers, the seniority is counted based on when the teachers had been placed in a particular category-for their seniority stands graded and categorized by the date of their very joining. This categorization is qualification-dependent. Placed in the descending order of category, the teachers rise in ranks of seniority with their additionally acquired qualifications under Guideline (2) of Schedule F, appended to Rule 12 of the MEPS Rules. Thus, a teacher who is a member of a lower category can in no manner rank senior to the teacher who is already a member of a higher category. Such a claim could be based neither on his continuous service nor on his acquiring the qualification and reaching the higher category. To be specific a teacher, for example, in Category D, E, or F, on later migration to Category C, cannot steal a march over a teacher already ensconced in that higher Category. That teacher's seniority by length of service and by his or her later acquiring the requisite, additional, or even superior qualifications does not defeat the right of teachers already found placed in Category C. What applies

to Primary Teachers cannot apply to Secondary Teachers, for the Rules do keep these two streams of teachers unmixed. Therefore once the secondary teacher enter a common category from the different sources, their seniority must be reckoned from the date they enter the designated category i.e. from the date they acquire the necessary qualifications but not from the date of their entry into the service”

24. Thus, it can be seen that the seniority list prepared by respondent Nos.4 and 5-Zilla Parishad, Bhandara through its Chief Executive Officer is contrary to the provisions of law and the judgments of this Court.

25. So far as Government Circular dated 28/01/2025 is concerned, it is not in relation with the Secondary School Code, but it is in respect of Maharashtra Employees of Private School (Conditions of Services) Regulation Act, 1977, which is not applicable to the Zilla Parishad Schools. Even GR dated 01/08/2019 is not relevant to decide the present issue, as those are the guidelines given while granting promotion to the government officers/employees.

24. It can be seen that the objection raised by the petitioner is not at all considered in its proper perspective. It is his claim that since he acquired B.Ed. Degree in the year 2001, he entered into

Category-B and accordingly his seniority is required to be fixed since 2001. The said objection was rejected on the ground that the provisions under the Maharashtra Employees of Private School (Conditions of Services) Regulation Act, 1977 are not applicable in the case of the petitioner. It is not at all the case of the petitioner as per Annexure (45) to the Secondary School Code. He is claiming seniority since 2001 as he entered into Category-B in the year 2001. However, he was wrongly shown as promoted on 14/05/2012. In view of the above discussion, his placement is improper and even his representation/objection is not considered in its proper perspective. As such, his entry in Category-B is of 2001 and there cannot be any seniority on the basis of pay scale or any other criteria except what is laid down in Annexure (45). As such, the impugned seniority is liable to be quashed and set aside. Accordingly, we pass the following order.

- (i) The petition is allowed.
- (ii) The impugned seniority list published on 23/09/2024 by respondent Nos.4 and 5-Zilla Parishad Bhandara is hereby quashed and set aside.

(iii) The respondent Nos.4 and 5-Zilla Parishad Bhandara are hereby directed to prepare fresh seniority list in view of Annexure (45) of Secondary School Code and the judgments in this regard. The petition stands disposed accordingly.

25. Rules is made absolute in the above terms. No costs.

(RAJ D. WAKODE, J.)

(SMT. M.S. JAWALKAR, J.)

Kirtak/KHUNTE