



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

**WRIT PETITION NO.90 OF 2020**

VINOD MAROTRAO KADU AND OTHERS

VS

THE STATE OF MAHARASHTRA THR. SECRETARY, DEPT. OF SCHOOL  
EDUCATION AND SPORTS AND OTHERS

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

*Court's or Judge's order*

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Mr. B.G. Kulkarni, Advocate for the petitioner/s  
Ms Prachi Joshi, AGP for the respondent Nos.1 to 3/State  
Mr. Aniket Waghdhare, Advocate for the respondent No.4  
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**CORAM : ALOK ARADHE C.J. AND**  
**ANIL S. KILOR, J.**

**DATE : 27<sup>th</sup> FEBRUARY, 2025**

**P. C. :**

1. Heard.

2. The petitioners are the part time Junior College Teachers in respondent No.4, grant-in-aid school, which is the Junior College and have approached this Court with prayers to direct the respondent Nos.1 to 3 to continue the status of the petitioners as part time Junior Collage Teachers with an entitlement of 50 % of regular salary in the prescribed pay-scale till the time the status of full time Junior College Teacher is not granted and further, to quash and set aside the communications dated 07.12.2019 and 19.08.2019, holding the petitioners' appointments as part time Shikshan Sewak. It is further prayed that the order of

approval dated 03.07.2020 be quashed and the order of approval dated 05.04.2017 passed by the respondent No.3-Deputy Director of Education, Nagpur, may be confirmed.

**3.** The brief facts which give rise to the present petition, are as follows:

It is the case of the petitioners that after following due process of selection and appointment, they were appointed as 'part time Junior College Teachers' in respondent No.4 school, vide orders of appointments dated 06.02.2017. Thereafter, a proposal for grant of approval was submitted by the respondent No.4 to the respondent No.3-Deputy Director of Education, Nagpur. The respondent No.3, after necessary verification and scrutiny, granted approval vide order dated 05.04.2017 as 'part time Junior College Teachers' in pay scale Rs.4650-17400 with Grade Pay Rs.2300/- for a probation period of two years. After completion of probation period of two years, the respondent No.4 confirmed the services of the petitioners and issued orders dated 06.02.2019. Accordingly, the respondent No.4 submitted proposals on 01.07.2019 to the respondent No.3 for grant of approval to the continuation of appointments of the petitioners on onward basis.

**4.** The respondent No.3 stopped disbursement of salary of payment of the petitioners from 01.05.2019, though they were regularly discharging their duties and

responsibilities as part time teachers and refused to grant approval to the confirmation of the petitioners. It was informed that when a proposal for grant was submitted to the Respondent No.2-Director of Secondary and Higher Secondary Education, Pune, it was informed that the proposal can be considered only when the approvals were granted as 'part time Shikshan Sewak' with part time remuneration for a period of three years. Hence, this petition.

5. The learned counsel for the petitioners argues that Shikshan Sewak scheme is not applicable to the part time teachers and though it is clear from Government Resolution (GR) dated 10.06.2005, by misinterpreting the GR dated 17.05.2017, approval has been denied.

6. It is submitted that a Shikshan Sewak scheme, for secondary and higher secondary schools, was brought into force by the Government Notification dated 13.10.2000 and implemented as per GR dated 10.06.2005. It is submitted that clauses (9) and (13) of the GR dated 10.06.2005, make it clear that the petitioners were rightly appointed as part time teachers and not part time Shikshan Sewak. However, relying upon the GR dated 17.05.2017, which only clarifies that the provisions of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 & Rules, 1981 (for short "the MEPS

Act and Rules”), the petitioners have been denied approval.

7. On the other hand, Ms Joshi, learned Assistant Government Pleader, supported the action of the respondent No.3 and submits that since the petitioners are working in the night school and their workload is half of the full time teacher as per Note 4 of Rule 21 of the MEPS Rules, 1981, the teachers in night school shall have half workload specified for the full-time teachers. It is submitted that as per Rule 73.6 of the Secondary Schools Code, the teaching hours of the teachers in a night school shall be half of those prescribed for teachers in a day school. Therefore, it is submitted that initial appointments of the petitioners will be considered as part time Shikshan Sewak.

8. In the above referred backdrop, we have perused the record and also the GRs dated 10.06.2005 and 17.05.2017. Admittedly, the Shikshan Sewak scheme was introduced and brought vide notification dated 13.10.2000 and implemented as per GR dated 10.06.2005.

9. Clauses (9) and (13) of the GR dated 10.06.2005, are relevant for the purpose of issues involved in the present petition.

10. Clause (9) says that, if the work load of full time teacher becomes available to the part time teacher working in the school and if the said teacher is fulfilling the terms

and conditions applicable to the full time post, then in such cases the said teacher be appointed as Shikshan Sewak. However while making such appointment and while approving the same, it will be obligatory to ensure the compliance of the policy of reservation to the backward categories. While appointing part time teacher as Shikshan Sewak, his half of the part time service be counted for purposes of service as Shikshan Sewak. Thereafter on ensuring the compliance of applicable terms and conditions, he be appointed in regular pay scale. If the part time teacher has already rendered six years of part time service and if he is to be granted appointment as full time teacher, then he should not be granted the appointment as Shikshan Sewak but he should be appointed in regular pay scale subject to the compliance of applicable terms and conditions.

Clause (13) says that there are specific directions that the part-time Junior College teacher be granted half of the salary (50%) payable to the full time Junior college teacher. Therefore even though it is true that the salary paid to these teachers is more than the remuneration payable to the Shikshan Sewak, the part time teachers do not have job security and do not get any of other benefits. Similarly in the event of satisfactory service of three academic years or thirty months, Shikshan Sewak becomes eligible for regular pay scale. Therefore it is necessary that if the part time post

is converted into full time post, he should be initially appointed as Shikshan Sewak.

**11.** As per clause (13), it appears that a post of part time teacher of Junior Collage Teacher and the post of Shikshan Sewak is not treated as one but separate and distinct. From the language of clause (13), it can be seen that while stating difference between both the posts, it is stated that even though it is true that the salary paid to these teachers is more than the remuneration payable to the Shikshan Sewak, the part time teachers do not have job security and do not get any other of benefits. Similarly, in the event of satisfactory service of three academic years or thirty months, Shikshan Sewak becomes eligible for regular pay scale.

**12.** The respondent No.3, while considering the case of the petitioners, appears to have not taken into consideration above referred clauses and wrongly relied upon the GR dated 17.05.2017, which only clarifies that the provisions of the MEPS Act and Rules are applicable to the appointment of Shikshan Sevwak.

**13.** In that view of the matter, since clauses (9) and (13) appear to have not been considered by the respondent No.3 and as regards applicability to the present case has not been commented upon in the reply, we are of the opinion

that the matter needs to be remanded back to the respondent No.3 to reconsider the case of the petitioners for onward approval as 'part time teachers' with all consequential benefits in light of GR dated 10.06.2005. Accordingly, we pass following order:

- (i) The writ petition is **partly allowed**.
- (ii) The impugned communications, dated 07.12.2019 passed by the Respondent No.2-Director of Secondary and Higher Secondary Education, Pune and dated 19.08.2019 passed by the respondent No.3-Deputy Director of Education, Nagpur, are hereby quashed and set aside.
- (iii) The matter is remanded back to the respondent No.3-Deputy Director of Education, Nagpur to take decision afresh, by taking into consideration the above referred observations.
- (iv) The respondent No.3-Deputy Director of Education, Nagpur shall take decision, after hearing the petitioners, within three months from the date of submission of copy of this order.

The writ petition is disposed of in the above terms. No order as to costs.

(ANIL S. KILOR, J.)

(CHIEF JUSTICE)