



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

WRIT PETITION NO. 422 OF 2025

Mayur Rajendrakumar Bande, Aged about 30 years, Occ:Nil,
R/o Malegaon, Taluka Malegaon Dist. Washim.

PETITIONER

VERSUS

1. Syadwad Sikshan Sanstha, Through its Secretary,
C/o Padmaprabhu Digambar Jain Vidyalaya, Ansingh,
Taluka Ansingh, Dist. Washim.
2. Padmaprabhu Digambar Jain Vidyalaya, Through its
Headmaster, Ansingh, Taluka Ansingh, Dist. Washim.
3. Education Officer (Sec.), Zilla Parishad, Washim.
4. Sanjay Dharamchandra Walli, Syadwad Shikshan
Sanstha, Ansingh, Taluka Ansingh, Dist. Washim.
Through its President.

RESPONDENTS

Shri P.P. Thakare, counsel for the petitioner.
Shri K.S. Chiwarkar, counsel for the respondent no.1.
Shri A.P. Chaware, counsel for the respondent no.2.
Ms P.C. Bawankule, Assistant Government Pleader for the respondent no.3.
None for the respondent no.4, though served.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 18, 2025

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with the consent of the learned counsel for the parties.

2. By this petition, the petitioner-Employee has challenged the judgment and order dated 04.10.2024 passed by the School tribunal, Amravati dismissing the appeal filed by the petitioner challenging the 'otherwise termination' of the petitioner.

3. The short controversy involved in the petition is, legality of the judgment and order passed by the School Tribunal, Amravati which has

recorded that on the date of the petitioner's appointment as 'Part-Time Librarian' he was not qualified for the said post and therefore the appointment of the petitioner is held to be illegal.

4. The petitioner's case is that he was appointed as 'Part-Time Librarian' by following a regular recruitment process, by appointment order dated 03.06.2010 and he joined the service accordingly. The Education Officer (Secondary) granted approval to his appointment *vide* order dated 20.08.2011. However, after about eight years, the Headmaster restrained the petitioner from performing the work w.e.f. 01.04.2018 on the ground that the petitioner was not possessing necessary qualification for the said post. Thereafter, even the Education Officer (Secondary) issued letters dated 05.07.2018 and 09.07.2018 to the Deputy Director recommending cancellation of approval to the appointment of the petitioner. Even though the approval was not cancelled, since the petitioner was not allowed to perform the duties, he filed appeal before the School Tribunal challenging his 'otherwise termination'. The appeal was dismissed and hence the instant petition is filed.

5. The counsel for the petitioner submitted that the School Tribunal has failed to consider the most vital aspect that the petitioner's appointment as 'Part-Time Librarian' was against a sanctioned post and based on his qualification, the Education Officer (Secondary) had granted approval to his appointment *vide* approval order dated 20.08.2011. He also submitted that the petitioner was infact possessing the requisite qualification for the said post and the certificate of 'Librarian' was immediately submitted by the petitioner after his appointment. It is also submitted that even the respondent

no.1-Management has not disputed that the petitioner was possessing requisite qualification at the time of his appointment and approval was also granted by the Education Officer (Secondary) considering his eligibility for the said post. He invited attention to the affidavits-in-reply dated 24.01.2025 and 08.08.2025 filed by the respondent nos.1 and 2 respectively which categorically mention that *the approval granted by the respondent no.3-Education Officer (Secondary) to the petitioner's appointment was valid and operative and hence the respondent no.1-Management was ready and willing to reinstate the petitioner in service.* He therefore submitted that the impugned judgment and order upholding 'otherwise termination' of the petitioner is unsustainable in law.

6. The respective counsel for the respondent nos.1 and 2 fairly submitted that since the petitioner had submitted necessary certificate immediately after his appointment, the Education Officer (Secondary) had granted approval to his appointment for the post of 'Part-Time Librarian'. By referring to the affidavits-in-reply, it is submitted that the petitioner was appointed by conducting a regular recruitment process and in view of his eligibility and qualification, there was no hurdle in reinstating the petitioner in service. It is submitted that although there was no illegality in the recruitment process, the Education Officer (Secondary) *vide* order dated 05.07.2018 had observed that the petitioner's appointment was improper and recommended cancellation of the approval to the Deputy Director of Education. Pertinent to note, the Management has infact supported the contention of the petitioner that there was no illegality in his appointment and he deserved to be reinstated in service.

7. Having regard to the contentions canvassed by the petitioner as well as respondents, limited controversy is, whether the appointment of the petitioner can be considered to be illegal. It is pertinent to note that undisputedly, the petitioner had got requisite qualification for the post of 'Part-Time Librarian' and even the certificate in that regard was immediately submitted to the respondent no.1-Management. In view of the categorical stand taken by the respondent nos.1 and 2 in their affidavits-in-reply referred above, the 'otherwise termination' of the petitioner deserves to be quashed and set aside. The inferences drawn by the School tribunal about the petitioner's appointment being illegal on account of lack of qualification clearly appear to be unsustainable in law.

8. It has to be noted that in view of the affidavits-in-reply filed by the respondent nos.1 and 2, the petitioner is already reinstated in service during pendency of the instant petition and the Management has no grievance about his rendering of service.

9. In view of aforesaid, the order of 'otherwise termination' of the petitioner dated 01.04.2018 deserved to be quashed and set aside. The School Tribunal erred in concluding that the petitioner was unqualified person and therefore his appointment was illegal. In view of the stand taken by the respondent nos.1 and 2 about eligibility of the petitioner for the post of 'Part-Time Librarian' and reinstatement granted by them, the petitioner has filed an affidavit dated 18.11.2025 categorically stating thereby that the petitioner is ready to give up the claim for entire backwages from 01.04.2018 till his reinstatement i.e. 10.10.2025.

10. Hence, the judgment and order passed by the School Tribunal, Amravati dated 04.10.2024 in Appeal No.4 of 2021 is quashed and set aside. The appeal filed by the petitioner bearing Appeal No.4 of 2021 before the School Tribunal, Amravati is allowed. It is clarified that the petitioner will not be entitled to backwages for the period from 01.04.2018 till his reinstatement i.e. upto 10.10.2025. However, the petitioner is entitled for the salary for the period for which he has actually worked. The respondent nos.1 and 2 are directed to send the petitioner's salary bills to the competent authority at the earliest.

11. Rule is made absolute in aforesaid terms. The writ petition is allowed and disposed of with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)