



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION NO. 237 OF 2025
IN
WRIT PETITION NO. 10691 OF 2017**

Uddhav Bhimrao Jadhav

Age : 54 years,

Occupation : Assistant Teacher,

Savitribai Phule Secondary School,

Parner, Tq. Ambad, District - Jalna

.. Applicant

Versus

1. Rajdharma Shikshan Prasarak Mandal
Ambad, District – Jalna,
Through its Secretary

2. Savitribai Phule Secondary School,
Parner, Tq. Ambad, District – Jalna,
Through its Headmaster

3. Education Officer (Secondary)
Zill Parishad, District – Jalna

.. Respondents

**WITH
CIVIL APPLICATION NO. 13230 OF 2025
IN
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Mr. Milind Madhukar Patil, Advocate for the Applicant.

Mr. Sanjeev B. Deshpande, Senior Advocate a/w Mr. Chaitanya Deshpande, Advocate i/b Mr. Swapnil A. Deshmukh, Advocate for Respondent No. 1.

Mr. S. K. Shirse, AGP for Respondent No. 3.

CORAM : KISHORE C. SANT, J.

Date on which reserved for order : 13th March, 2026.

Date on which order pronounced : 10th June, 2026.

FINAL ORDER :-

1. This application is filed seeking review of the judgment and order passed by this Court in Writ Petition No. 10691/2017 dated 11.12.2024. The review is by the respondent – original appellant before the School Tribunal who had succeeded before the School Tribunal in setting aside order of termination. The Tribunal granted reinstatement with all consequential benefits and backwages to the extent of 50%. In the writ petition at the instance of respondents/education institution and the school this Court set aside the judgment and order of the School Tribunal.

2. Main grounds on which this Court set aside the judgment of the School Tribunal are that the applicant failed to show that he was qualified and eligible to be appointed to the post of Assistant Teacher. Further, it was held that, at no point of time there was approval granted by the Education Officer to his appointment. The issue of eligibility was because as to whether one year degree course completed by the teacher from an open university was equivalent to B.Ed. qualification. The said issue was also answered against the applicant holding that the said was not equivalent to the recognized qualification.

3. This review is mainly filed on the ground that this Court has committed an error apparent on the face of record by holding that the degree and the qualification held by the applicant was not requisite qualification. This Court considered the grounds which were not raised in the appeal and which were not even pleaded. One more ground taken is that after reserving the petition for judgment the applicant had submitted few judgments, with leave of the Court. However, those are not considered in the judgment. This Court has not considered the fact that an approval was granted in principle.

4. The applicant has also filed Civil Application No. 13230/2025 seeking permission to substitute pages 28 and 29. The applicant by way of the said application further wants to produce on record the documents (i) letter dated 16.09.2025 issued by the Deputy Registrar (Exam/Enquiry), Sant Gadgebaba Amravati University and (ii) degree certificate for Bachelor of Commerce with Marathi subject.

5. The learned advocate Mr. Patil for the applicant vehemently argued the application. He invited attention to letter dated 10.01.2011 by the Education Officer, Zilla Parishad addressed to the Headmaster asking to comply with the documents and to consider his approval. Another document he invited attention to is that the school did not remove the deficiencies in the proposal. The basic question that was considered by this Court is about the qualification as to whether the qualification held by the applicant is sufficient. He thus submitted that the Deputy Director of Education, Aurangabad, Region Aurangabad had, in clear terms, stated that the qualification held by the applicant is sufficient to grant approval to the appointment as a teacher. He thus submits that only because the course completed by the applicant happen

to be from the open university and is a distant course cannot be considered to be not equivalent to the qualification as B.A.B.Ed. He submitted that the error has occurred mainly because of the fact that this Court did not consider the judgments relied upon by the applicant. He invited attention to schedule B clause 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules and Note 1 to submit that the duration of the course is not mentioned and this Court, however, mainly considered that the duration of the course of the applicant is only one year which cannot be, in his submission, a consideration. He again invited attention to ordinance produced with Civil Application No. 13230/2017. In support of his submission he relied upon the following judgments :

(i) The Secretary, Jan Seva Bhavi Sanstha, Ghatsavali, Tql. And Dist. Beed Vs. Shankar Nivrutti Tambade and others in Writ Petition No. 12568/2015 with another connected writ petition.

(ii) Trimurti Balak Mandir Shikshan Sanstha Through Secretary and another Vs. Smt. Vithabai Bhikan Desale and others, in Writ Petition No. 9329/2015.

(iii) St. Ulai High School And Another Vs. Devendraprasad Jagannath Singh And Another, 2007 MHLJ 1 597.

(iv) Ragini Jalindar Atkare Vs. The State of Maharashtra and others, 2024 SCC ONLINE BOM 2303.

6. The learned senior advocate Mr. Deshpande for the respondent No. 1 vehemently opposed the review application. He mainly made submissions on the scope of review application. He submits that the Court had considered all the aspects involved in the matter. So far as the communication by the Deputy Director to the Education Officer about equivalence is concerned, he submits that the answer was to a general question. There was no specific query raised about petitioner's degree. This communication does not specifically speak that the qualification is equivalent as on today till the judgment and even as of now there was no approval granted by the Education Officer to the appointment of the applicant. He submits that, this Court has also rightly considered that the date of termination is 2008 and not 2015 as alleged by the applicant. The applicant by way of this application wants this Court to change the finding recorded by the Court as regards approval to the appointment which cannot be done. There is no new document produced on record to entertain the review application. No due diligence is also shown. Not mentioning the judgment in the judgment is no ground to review the order. He

relied upon the following judgments :

- (i) **Union of India Vs. Namit Sharma, 2013 SCC 10 389.**
- (ii) **Mod. Yousuf, Ex-Driver Vs. Director General of Fire Services, 2010 DGLS (A.P) 218.**
- (iii) **M/s. Docket Care Systems Lko. Thru. Partner Shri Pankaj Kumar Agarwal Vs. Union of India Thru. Secy. Ministry of Micro, Small And Medium Enterprises, New Delhi and others, 2023 AHC-LKO 82069-DB.**
- (iv) **Kaleem Akter Siddiqui Vs. Soma Sudheer (Dr.), 2012 DGLS (A.P) 5.**

7. The learned senior advocate lastly submitted that, even the judgments submitted by the applicant are considered, that will not change the conclusion of this Court and therefore, the application deserves to be dismissed.

8. This Court firstly has to keep in mind that, the application being considered is the application seeking review of the judgment passed by this Court and therefore, the scope of the application needs to be kept in mind. The judgments which this Court did not consider as stated in the application are as below :

(i) **Mirza Ashraf Baig Vs. Maulana Azad National Urdu University Hyderabad, 2017 SCC ONLINE BOM 8922.**

(ii) **State of Andhra Pradesh And Others Vs. Shaik Mahibulla Sharief, 2017 SCC 5 537.**

(iii) **Abdul Motin Vs. Manisankar Maiti And Others, 2018 SCC 16 533.**

(iv) **Kishor Vs. State of Maharashtra, 2018 MAH LJ 5 768.**

9. This Court has to mainly consider the judgments which were filed after hearing of the writ petition.

10. In the case of **Mirza Ashraf Baig** (supra), the petitioner had got admission to D.Ed. Course in Urdu medium. Thereafter, he got admission to B.A. course in open university. He did his degree course in Urdu medium which he cleared in the year 2014. He thereafter applied for B.Ed. Course. In the said case, the Court specifically considered the communication by the university. An inference was drawn that the degree conferred by the open university is approved by U.G.C. and is recognized as equivalent to the corresponding degrees awarded by conventional university in the Country. It is seen that there was specific communication to draw such an inference that the degree awarded by the open

university is having equivalence to the degree awarded by conventional university.

11. In the case of **State of Andhra Pradesh And Others Vs. Shalik Mahibulla Sharief** (supra), the petitioner, appellant before the Hon'ble Supreme Court had applied for the post of language Pandit (Telugu). He applied for an appointment. The respondent therein was a person having passed B.A. with History, Economics and Political Science in the year 1998 and B.Ed. with Telugu and Social Studies as methodology subjects in the year 2005. He had passed B.A. in Telugu Literature as a single subject from the open university in the year 2007. He, lateron, completed M.A. in Telugu by distant education mode from the open university. It was the case of the petitioner that the respondent was not eligible for appointment for want of requisite qualification on the basis of the rules requiring that a person must possess a Bachelor's degree or its equivalent or a post graduate degree in Telugu and B.Ed. with Telugu as methodology or Telugu Pandit Training or its equivalent. It is held that the respondent possess B.Ed. degree with Telugu and B.A. in Telugu Literature as single subject from the open university. The Tribunal thus confirmed opinion that he was

eligible for an appointment as language Pandit. The writ petition filed by the petitioner therein failed. The S.L.P. also came to be dismissed. In the said case, the judgment considered the Andhra Pradesh Direct Recruitment for the Post of Teachers (Scheme of Selection Rules, 2012 and in that view the judgment was passed.

12. In the case of **Abdul Motin** (supra), the Hon'ble Apex Court also considered the question of equivalence of the degree course. The Court considered the facts of that case and passed the judgment.

13. In the case of **Kishor Vs. State of Maharashtra** (supra), the petitioners therein were held to be ineligible to get promotion to the post of Junior Research Assistant in Mahatma Phule Krishi Vidyapeeth, Rahuri. They were holding Bachelor's degree in Agriculture or Horticulture awarded by Yashwantrao Chavan Open University and were working as Agriculture Assistants with the Krishi Vidyapeeth. A communication was issued that the qualification from open university will not be considered for promotional post of Judicial Research Assistant being the academic post. The said communication was impugned in the petition. In the said case, this Court considered the

recommendations of the U.G.C. to the universities for conferring degrees and diplomas. The U.G.C. had taken specific stand about the equivalence of degrees supporting the petitions. It had no authority to declare equivalence of the degrees. The authorities vested with the concerned educational institutions for higher studies and with concerned employer with regard to employment and promotion. It is held that the said stand is not consistent with the legal provisions. The said was considered in view of statute 74 and the post was promotional post. In the said judgment paragraph No. 33 reads as under :

“33. However, the claim of the petitioners that, the said equivalence should be considered for the post of Senior Research Assistant is certainly not maintainable. As per amendment of 2014 to the Maharashtra Agriculture Universities Statute, now the degree of M.Sc. Of respective faculty has been made compulsory and, therefore, the prayer of the petitioners in this regard deserves to be rejected and same is accordingly rejected.”

14. Thus, the request to grant equivalence was specifically rejected.

15. In the case of **The Secretary, Jan Seva Bhavi Sanstha** (supra), this Court considered that the management allowed the

employees to work for several years without salary and it is after payment of salary the stand was taken that the appointment of the employees itself was illegal. There no question of equivalence of the degrees was considered.

16. The judgment in the case of **Trimurti Balak Mandir Shikshan Sanstha** (supra) was on the point of termination of employee and the same was set aside. It was held that the management is precluded from questioning its own appointment order issued to the respondent. However, there was no question again of the qualification on the basis of equivalence.

17. In the case of **St. Ulai High School And Another** (supra), the question was of approval. The question of equivalence is not considered even in this judgment.

18. In the case of **Ragini Jalindar Atkare** (supra), also the facts were different and no question of equivalence was considered.

19. So far as the judgments relied upon by the respondent are concerned, the first judgment is in the case of **Union of India Vs. Namit Sharma** (supra). Paragraph No. 21 of the said judgment reads as under :

“21. Review of a judgment or order of this Court under Article 137 of the Constitution is confined to only errors apparent on the face of the record as provided in Order XL Rule 1 of the Supreme Court Rules, 1966. A three Judge Bench of this Court has held in **Commissioner of Sales Tax, J & K and Others v. Pine Chemicals Ltd. and Others** [(1995) 1 SCC 58] that if a reasoning in the judgment under review is at variance with the clear and simple language in a statute, the judgment under review suffers from a manifest error of law, an error apparent on the face of the record, and is liable to be rectified. Hence, in these Review Petitions, we have to decide whether the reasoning and directions in the judgment under review is at variance with the clear and simple language employed in the different provisions of the Act and accordingly whether the judgment under review suffers from manifest errors of law apparent on the face of the record.”

20. It is thus clear that, not only that the applicant need to show that there is error apparent on the face of record, but he also has to show that the judgment is clearly against the law and there is manifest error of law which is liable to be rectified.

21. In the case of **Mohd. Yousuf, Ex-Driver** (supra), the only ground raised in the review was that at the time of hearing of the petition the decisions of the Hon'ble Supreme Court were not placed. The High Court considered that such is not a valid ground

unless the petitioner makes out a case of discovery of new and important matter of the case which was not within the knowledge of the party in spite of due diligence, secondly, on account of some mistake or error apparent on the face of record and thirdly, for any other sufficient reason.

22. In the case of **M/s Docket Care Systems Lko.** (supra), paragraph No. 17 reads as under :

“17. The learned counsel for the review applicant placing heavy reliance on the observation made by the Apex Court in **Jharkhand Urja Vikas Nigam Limited’s case** (Supra), submitted that this Court in the impugned judgment has failed to consider the said judgment in its true perspective, which according to the review applicant, is an error apparent on the record of the present case. First and foremost, non-consideration of a judgment cannot be a ground for review as that would lead to substituting the view already taken by this Court, in as much as liberty had already been granted by this Court vide the impugned order for availing alternate remedy under Section 34 of the Arbitration & Conciliation Act, 1996 and even it had been directed that all the legal issues would remain open to the review-applicant before the competent forum. Thus, this Court is satisfied that there exists no material error on the face of the impugned order, which would result in miscarriage of justice.”

23. It is clearly held that, non consideration of a judgment is not a ground for review. On this ground also, this Court finds that, no such case is made out to consider the present review application.

24. In the present case, this Court does not find that any case is made out showing that the judgment is clearly against the statute and there is any error apparent on the face of record making out the case to review the judgment.

25. This Court has considered all these submissions and the judgments of both the parties. So far as consideration of fresh documents are concerned, this Court has already considered the same. Even after considering those documents this Court does not find that a case is made out to entertain review application.

26. For all these reasons, this Court finds that, no case is made out to allow the present review application. The review application stands dismissed. No order as to costs.

27. The Civil Application No. 13230/2025 stands allowed and disposed off.

(KISHORE C. SANT, J.)