

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

928 WRIT PETITION NO. 3696 OF 2026

Rajeshwar Laxman Waghmare

VERSUS

The State Of Maharashtra Through Secretary Department Of School
Education And Others

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Mr. Umakant B. Deshmukh - Advocate for the Petitioner

Mr. R. S. Wani - AGP for the State

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CORAM : SMT. VIBHA KANKANWADI
AND
HITEN S. VENEGAVKAR, JJ.

DATED : 08TH APRIL, 2026

PER COURT : -

1. The present petition has been filed seeking the following relief:

"B. To issue writ of mandamus or any other appropriate writ or direction in the like nature, the impugned order dated 22.12.2025 passed by Education Officer (Secondary), Zilla Parishad, Dharashiv (Exhibit-"I") may kindly be quashed and set aside, and accordingly, the respondent no. 04 may kindly be directed to re-fix the salary of the petitioner as per the prescribed pay scale of an Assistant teacher w.e.f. 01.10.2021 and pay the arrears thereto within the stipulated period.

2. Heard the learned Advocate for the Petitioner. He submits that the Petitioner was appointed as a Peon on 16.02.1999 and, while serving, upgraded his qualifications to M.A., B.Ed. He worked as a Peon

continuously for 20 years, and the last salary drawn by him was Rs.37,775/- per month. A vacancy arose in the Institution for the post of Teacher, and, therefore, in view of Clause 8 of the Government Resolution dated 10.06.2005, he was appointed as a Teacher on 01.10.2021. The Education Officer, while granting approval under order dated 10.06.2022, stated that the services of the Petitioner were approved as Shikshan Sevak on an honorarium of Rs. 8,000/- per month, and it was further stated that there would be a probation period of three years. Thereafter, upon completion of the probation, the Management submitted a proposal on 24.01.2025 for approval and confirmation of his appointment, which was approved by order dated 18.02.2025. The Education Officer granted the pay scale effective from 01.10.2024, i.e., after the probation period was over. Subsequently, the Petitioner submitted a representation, but by order dated 22.12.2025, the Education Officer rejected the same.

3. The learned Advocate for the Petitioner relies on the decision in *Shri Suhas s/o Rangraoji More versus State of Maharashtra and Others (Writ Petition No. 7706 of 2022, decided by the Coordinate Bench of this Court at Nagpur Bench on 21st December, 2023)*, wherein, under almost similar facts, it was observed that Clause No. 8 of the Government Resolution dated 10.06.2005 is arbitrary and discriminatory. It was noted that the said Government Resolution was

issued to overcome difficulties faced by the authorities in implementing the Shikshan Sevak scheme. However, the Petitioner was appointed as a Peon on a regular permanent post, and thereafter, his promotion as a Shikshan Sevak deprived him of the pay scale and other service benefits. Therefore, it is discriminatory and violative of Article 14 of the Constitution of India. He, therefore, submits that the impugned communication dated 22.12.2025 deserves to be quashed and set aside, and that Respondent No. 4 should be directed to re-fix the salary of the Petitioner on the pay scale of an Assistant Teacher w.e.f. 01.10.2021.

4. The learned AGP submits that, although there was a Government Resolution dated 10.06.2005, the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (MEPS Act) was subsequently amended, and Section 2(24A) was inserted. This section defines an Assistant Teacher (Probationary) as a member of the base teaching cadre appointed on honorarium and subject to the terms and conditions specified in the Government Resolution published in the *Maharashtra Government Gazette, Extraordinary, No. 12, Part I – Central Sub-Section, dated 15.02.2007*, for eventual appointment as a teacher.

5. He further points out the provisions of Section 5 of the MEPS Act, wherein Sub-section (2) prescribes a probation period of two

years for every person appointed to fill a permanent vacancy. The proviso provides that every person appointed as an Assistant Teacher (Probationary) shall be on probation for a period of three years. Sub-section (2A) of Section 5 prescribes that, subject to the provisions of Sub-sections (3) and (4), an Assistant Teacher (Probationary), on completion of the three-year probation period, shall be deemed to have been appointed and confirmed as a teacher. According to the learned AGP, all these amendments were not considered in the case of Shri Suhas More (supra). He also points out that, as of 25.03.2026, Clause No. 8 of the Government Resolution dated 10.06.2005 has been treated as deleted. He further submits that there is no provision in the MEPS Act for the promotion of a non-teaching member to the post of Assistant Teacher, therefore, the decision given by the Education Officer is correct.

6. Here, certainly, the facts in Shri Suhas More (supra) are similar to the facts in the present case, therefore, *prima facie*, we are of the opinion that the Petitioner should receive the same treatment. The learned AGP did not have information regarding whether the State Government has filed any Review Petition or has challenged the decision in Shri Suhas More (supra). With these observations, we would give the Respondents an opportunity to place other facts on record by way of an affidavit-in-reply, while maintaining that, *prima facie*, the facts in Shri Suhas More (supra) and the present case are similar. The affidavit shall

be filed on behalf of Respondent Nos. 1 to 4 within a period of two (2) weeks, and a copy thereof shall be provided to the other side in advance.

7. Place the matter for further consideration on *5th May, 2026*.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

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