

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6782 OF 2024

Nirmala Narayan Deshmukh & Anr.

VERSUS

The State of Maharashtra & Ors.

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Mr. Sagar A. Mane with Mr. Rushikesh D. Jagdale and
Ms. Neha Farakate i/by Ms. Ashwini Bandiwadekar,
Advocate for the petitioners.

Ms. T. J. Kapre, AGP for the State.

**CORAM : SMT. VIBHA KANKANWADI &
NANDESH S. DESHPANDE, JJ.**

DATED : JUNE 9, 2026

P.C.:

1. Heard learned Advocate for the petitioners.
2. Learned AGP waives service of notice for respondent Nos.1 and 2/State.
3. At the outset, it appears that petitioner No.2 has also been shown as respondent No.3. When this fact was pointed out, learned Advocate for the petitioners seeks deletion of the name of respondent No.3. Amendment to be carried out forthwith to that effect.

4. The petitioners have come with a case that petitioner No.1 came to be appointed as a full-time Shikshan Sevak on an unaided post with petitioner No.2 with effect from 1st December 2014. The probation period was of two years. After it was completed satisfactorily, the services of petitioner No.1 ought to have been approved as deemed permanent by virtue of Section 5(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. The petitioners then contend that in the academic year 2019–2020, one sanctioned post of Assistant Teacher on aided basis was vacant and, therefore, petitioner No.2 transferred petitioner No.1 to the said post, and the proposal was submitted for approval. By order dated 20th July 2019, respondent No.2 had approved the transfer, but it was then stated that petitioner No.1 stood transferred to the aided post from 14th February 2019 as Shikshan Sevak.

5. Learned Advocate for the petitioners relies on the decision in case of *Pramod s/o Prabhakar Pokale vs. State of Maharashtra & Ors.*, reported in 2019(4) Mh.L.J. 278, wherein it has been held that once an appointment of a teacher is made on unaided basis in the school, and the approval is granted on regular basis on

satisfactory completion of two years period on probation by the appointee in conformity with the mandate of the provisions of the MEPS Act, 1977, and Rules framed thereunder, there is no question of giving fresh appointment to such candidate who has already completed probation period of two years satisfactorily, or refusing approval to transfer of such candidate from unaided school to aided school run by the same institution, or transfer of an Assistant Teacher working on unaided post, whose services have been approved on satisfactory completion of probation period by the Education Officer to vacant aided post of Assistant Teacher in same school. There is no doubt that, if there are surplus teachers on the roll of the Education Officer at the District level, he/she can certainly ask the Institutions/ Schools to absorb such surplus teachers, keeping in view the vacancies in those institutions. However, while doing so, the State Government or the Education Officer, at district level, as the case may be, shall keep in view the existing vacancies in the various schools and evolve some policy to send surplus teachers on proportionate basis to such schools having vacancies. It is only in case where the Assistant teacher has acquired status of regular employee on completion of two years probation period, and his appointment is in adherence to the

provisions of Section 5 of the MEPS Act, 1977, and the approval is granted by the Education Officer to his appointment on regular basis on the post of Assistant Teacher on completion of satisfactory probation period, and he is senior most teacher working in the school on unaided basis, in that case, the question of invoking sub-clause 5(A) of Clause 3 of the said Circular would not arise. In view of this position of law, the impugned order needs modification and hence the petition.

6. Learned AGP submits that, in fact, the proper proposal was not submitted. If a proper proposal is submitted, it can be considered.

7. Here, the law has been crystallized in ***Pramod s/o Prabhakar Pokale*** (supra), and there is no question of taking any different view. The fact is not in dispute that petitioner No.1 had completed the probation period successfully and thereafter she was transferred from unaided to aided post. Accordingly, the order ought to have been passed by respondent No.2.

8. Now, in view of the Government Resolution dated 13th November 2025, the power of considering proposals of teachers from unaided to aided posts lies with the Commissioner of

Education, Pune. In the said circumstances, we find it proper to direct petitioner No.2 to submit a fresh proposal to the Commissioner of Education, Pune with all necessary documents within a period of two weeks from today.

9. Though the Commissioner of Education, Pune is not a party to these proceedings, yet we direct the Commissioner of Education, Pune to consider the said proposal and decide it within a period of eight weeks after receipt of the said proposal, and then he has to consider the earlier order also as well as the decision of this Court in *Pramod s/o Prabhakar Pokale* (supra).

10. With above directions, the writ petition stands disposed of.

(NANDESH S. DESHPANDE, J.)

(SMT. VIBHA KANKANWADI, J.)