

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

WRIT PETITION NO. 13270 OF 2024

1. Sharmila Dhanapal Nandre, Age- 49 Yrs.
Presently residing at- post- Kothali, Tal- Shirol, Dist- Kolhapur
2. Nitin Tukaram Mankar, Age- 40 Yrs.
Presently residing at- Sankalp, 1914/2, Behind Shri. Ram Mandir, Nivruti Colony, Varna Nagar, At post- Varna Nagar Tal- Panhala, Dist- Kolhapur-416113
3. Rupali Ananada Sutar, Age- 40 Yrs.
Presently residing at- post- Unchgaon (E), Tal- Karveer, Dist- Kolhapur-416005
4. Satish Yashwant Chavan, Age- 43 Yrs.
Presently residing at- post- Mangaon Tal- Hatkanangale, Dist- Kolhapur-416118
5. Dattatray Nivrutti Kamble, Age- 44 Yrs.
Presently residing at- post- Takawade, Tal- Shirol, Dist- Kolhapur
6. Jalindar Ramchandra Patole, Age-41 Yrs.
Presently residing at- post- Koulav Tal- Radhanagari, Dist- Kolhapur-416211
7. Deepak Dinkarrao Patil, Age- 42 Yrs.
Presently residing at- Vadakashiwale, post-Chuye Tal- Karveer, Dist- Kolhapur
8. Anandrao Maruti Rane, Age-40 Yrs. Presently residing at- Madilge (BK), Tal- Bhudargad, Dist- Kolhapur 416209
9. Satuppa Subrao Patil, Age- 37 Yrs. Presently

residing at- Kitwad post- Hosur, Tal- Chandgad, Dist- Kolhapur

... Petitioners

Versus

1. The State of Maharashtra, Through the Secretary, School Education and Sports Department, Madam Kama Road, Mantralaya, Mumbai - 400 032.

2. The State of Maharashtra, Through the Secretary, Rural Development Department, Fort, Mumbai - 400 001.

3. The Director of Education (Primary), Central Building, Pune - 1.

4. The Kolhapur Zilla Parishad, Through its Chief Executive Officer, District: Kolhapur.

5. The Education Officer (Primary), Kolhapur Zilla Parishad, Kolhapur, District: Kolhapur

..Respondents

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Shri Datta H. Pawar, Advocate for the Petitioners.

Shri V.M. Mali AGP for the Respondent - State.

Shri S. Patil, Advocate (thr. V.C.) for Respondent Nos.4 and 5

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**CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.**

DATE : 20.04.2026.

ORAL JUDGMENT : [PER : PRAVIN S. PATIL, J.]

1. Heard. Rule made returnable forthwith with the consent of parties.

2. In the present petition, the grievance raised by the petitioners is that they being Graduate Trained Teachers, are eligible for the post of Cluster Head in terms of the seniority list published by the Education Officer (Primary), Zilla Parishad, Kolhapur, dated 28.04.2021. However, without considering the said seniority list, the respondent Zilla Parishad, Kolhapur has denied their legitimate claim for the post of Cluster Head by applying retrospectively the Government Resolution dated 27.09.2023. Therefore, petitioners constrained to approach before this Hon'ble Court seeking appropriate directions to the respondent Zilla Parishad, Kolhapur to consider their claim for the post of Cluster Head.

3. In the present petition, it is seen from the record that this is the third round of litigation undertaken by the petitioners in the matter. This Court in earlier round of litigation, by its order dated 28.08.2024 passed on Interim Application No. 10942 of 2024 in Writ Petition No. 11311 of 2022, has observed in paragraph Nos. 6, 7 and 9 as under:

“6. According to the Petitioners, the seniority list has already been prepared and all that remains is to direct the appointment of the Petitioners as per the said list. This fact is disputed by the Respondent-Zilla Parishad stating that the Petitioners have not completed three years period from the date of appointment of 31 August 2021 and they will be eligible on 1 September 2024. It is also stated that around 6837 primary school teachers in Zilla Parishad Kolhapur have completed more than 10 years of service. Intervenors claim to be senior to the Petitioners.

7. *Apart from the above debate between the Petitioners and Zilla*

Parishad, even going by the stand of the Zilla Parishad, the Petitioners would become eligible on 1 September 2024 upon completion of three years of period as per the Rules as modified as the promotion would be by way of seniority. Therefore, the process of appointment to the post of Kendra Pramukh will have to be carried out by the Respondent - Zilla Parishad as per the seniority of the eligible candidates.

9. In the light thereof, the Respondent - Zilla Parishad is permitted to commence the process of appointment to the post of Kendra Pramukh which has been stayed by the order of this Court, if no other impediments exists, as per the governing Rules as amended and clarified by the Government Resolution from time to time, from the class of eligible teachers as per the seniority. The Zilla Parishad will commence the process of appointment from 2 September 2024 or any other date post thereafter when the Petitioners would have completed three years and complete the same within a reasonable period. The rights of teachers aggrieved by the result of the selection process to take recourse of court of law is kept open.”

4. Accordingly, the respondent Zilla Parishad, Kolhapur has undertaken the process of promotion of Teachers against the post of Cluster Head. While undertaking this process, the respondent has relied upon the Government Resolution dated 27.09.2023, whereby the State Government, with effect from 27.09.2023, has revised the eligibility criteria for the post of Cluster Head, prescribing, a minimum of six years' continuous service as a Graduate Trained Teacher (Primary), along with consideration of seniority cum merit.

5. In view of this revised qualification, the petitioners were not held eligible for the post and accordingly, they were deprived from the

promotion to the post of Cluster Head.

6. In this background, the petitioners approached before this Court and seeking relief that as they were already held entitled for the post of Cluster Head in the year 2021, considering the qualification for the post on that date, their eligibility should have been considered by the respondent Zilla Parishad, Kolhapur. The Government Resolution dated 27.09.2023 cannot be made applicable retrospectively.

7. Learned AGP and intervenors have strongly opposed the present application. According to them, this Government Resolution dated 27.09.2023 is required to be made applicable because same specifically provided the qualification for the post of Cluster Head and on the date of promotion, same being in force are applicable in the matter.

8. In the present matter, the petitioners have pointed out the Government Resolution dated 16.02.2018 whereby it is provided that post of Cluster Head can be filled in by way of nomination as well as by promotion, the requisite criteria for the post by way of nomination as well as promotion is specifically provided in the said Resolution.

9. At this stage, the Counsel appearing for the Zilla Parishad, Kolhapur has raised objection that Government Resolution dated 16.02.2018 is applicable only when posts are filled in by way of nomination. The same cannot be made applicable while filling up the

posts by way of promotion. In view of this, we have perused the resolution minutely and found that submission of Zilla Parishad is incorrect. Clause 2 of the Government Resolution dated 16.02.2018 which is relevant in the matter reads as under:

“२. केंद्रप्रमुख पदावरील नेमणुकीकरिता अनुसरावयाची कार्यपध्दती पुढीलप्रमाणे राहिल:-
२.१) दिनांक १०.०६.२०१४ पूर्वी अभावितपणे नियुक्त करण्यात आलेल्या केंद्रप्रमुखांची नियुक्ती १०० टक्के पदोन्नतीने नियुक्ती समजण्यात येवून त्याप्रमाणे नियमित केंद्रप्रमुख पदावर समायोजित करण्यात आल्यानंतर उर्वरित रिक्त पदे दि.१०.०६.२०१४ च्या अधिसूचनेनुसार सरळसेवा, विभागीय मर्यादित स्पर्धा परीक्षा तसेच पदोन्नतीने नियुक्तीकरीता अनुक्रमे ४०:३०:३० या प्रमाणात भरण्यात येतील. सदर रिक्त पदे त्या त्या निवड प्रक्रियेअंतर्गत भाषा, गणित व विज्ञान, सामाजिक शास्त्र, इतिहास व भुगोल या विषयांसाठी समप्रमाणात भरण्यात येतील. विषयनिहाय भरतीचे प्रमाण खालीलप्रमाणे राहिल :-

अ) भाषा (एक)- इंग्रजी ५० टक्के

(दोन)-प्रथम भाषा-३० टक्के

(तीन)-द्वितीय भाषा (हिंदी)-२० टक्के

ब) गणित व विज्ञान-१०० टक्के

क) सामाजिक शास्त्रे-१०० टक्के (इतिहास व भुगोल)

प्रथम भाषा म्हणून मराठी, उर्दू यांचे प्रमाण ८०:२० असे राहिल.

२.२) पदोन्नती :- पदोन्नतीची ३० टक्के पदे जिल्हा परिषदेच्या प्रशिक्षित शिक्षक (प्राथमिक) पदावर किमान ३ वर्ष अखंड सेवा झालेल्या शिक्षकांमधून सेवाजेष्ठतेनुसार भरण्यात येतील.

२.३) सरळसेवा व विभागीय मर्यादित स्पर्धा परीक्षाद्वारे भरण्यात येणाऱ्या रिक्त पदांची आकडेवारी शासनाच्या संकेतस्थळावर संगणकीय प्रणालीद्वारे स्वतंत्ररित्या प्रसिध्द करण्यात येईल.”

10. From perusal of this Clause, it is clear that the ratio of appointment by nomination and promotion is provided. So also Clause 2.2 clarifies that 30% post of Cluster Head is required to be filled in by way of promotion. Hence, it is clear that by this Government Resolution, post of Cluster Head can be filled in by way of promotion and prescribed

3 years experience as a Trained Graduate Teacher.

11. It is further pertinent to note that respondent Zilla Parishad, Kolhapur has published the seniority list for the post of Cluster Head on 28.04.2021. In the said list, the name of petitioners were shown at Serial Nos.1, 4, 5, 6, 8, 9, 10, 12 and 13. As such, considering this list, it is clear that respondents already held that petitioners are entitled for promotion against the post of Cluster Head.

12. It is also pertinent to note that some of the teachers whose names are included in the seniority list published on 28.04.2021 have already been promoted to the post of Cluster Head by the respondent Zilla Parishad, Kolhapur. This fact is not denied by respondent Zilla Parishad in the matter. But, in the case of the present petitioners, the criteria prescribed under the Government Resolution dated 27.09.2023 has been applied without any justified reason.

13. It is further pertinent to note that the Deputy Secretary, Rural Development Department, by communication dated 12.09.2023 issued to the Chief Executive Officer, Zilla Parishad, Kolhapur, clarified that as per the Government Resolution dated 10.06.2014, the prescribed qualification for the post of Cluster Head is that candidate should be Trained Graduate Teacher (Primary) with three years' experience.

14. Moreover, it is required to be noted that in Writ Petition No. 11311

of 2022, the respondent Zilla Parishad, Kolhapur had made a statement before this Court that the petitioners, upon completion of three years' service, i.e. on 01.09.2024, would be entitled for promotion to the post of Cluster Head. Accepting the said statement, the petition was disposed of by this Court, as observed above.

15. In view of this factual position, it was expected from the respondent Zilla Parishad, Kolhapur that while undertaking the process the promotion of Cluster Head, the claim of petitioners ought to have been considered in light of the Government Resolution dated 16.02.2018, letter of the Deputy Secretary dated 12.09.2023 and the directions issued by this Court. But, it is clear that same is not considered in the matter by the respondent Zilla Parishad, Kolhapur.

16. It is pertinent to note that as per the chart which is submitted on record (i.e. Exhibit 4 page 162), the details of petitioners are provided.

The said chart is reproduced as under:

Petitioners Seniority Number And Information											
Sr.No.	Seniority Number	Name of the Petitioners	Designation Of Now	Joining Date Of in Kolhapur District	Joining Qualification	Joining Designation	Appointment of Graduate Teacher	Date Of Graduation (BSc)	Date Of B Ed	Graduat Teacher Tenure at the time of promotion 10/10/2024	Remark
1	1436	Sharmila Dhanpal Nandre	Graduate Teacher	11/01/1993	HSC Ded	Undar Graduate Teacher	03/09/2021	2019	2019	10 Dear 1 Month	Uneligible
2	3609	Nitin Tukaram Mankar	Graduate Teacher	15/12/2001	HSC Ded	Undar Graduate Teacher	31/08/2021	2019	2019	3 Year 1 Month	Uneligible
3	3685	Rupali Ananda Sutar	Graduate Teacher	03/12/2002	HSC Ded	Undar Graduate Teacher	01/09/2021	2004	2004	3 Year 1 Month	Uneligible
4	3776	Satish Yashwant Chavan	Graduate Teacher	29/09/2003	HSC Ded	Undar Graduate Teacher	01/09/2021	2018	2018	3 Year 1 Month	Uneligible
5	4807	Dattatray Nivrutti Kamble	Graduate Teacher	10/09/2015	HSC Ded	Undar Graduate Teacher	03/09/2021	1999	1999	3 Year 1 Month	Uneligible
6	4943	Jalindar Ramchandra Patole	Graduate Teacher	14/05/2008	HSC Ded	Undar Graduate Teacher	02/09/2021	2004	2004	3 Year 1 Month	Uneligible
7	5119	Deepak Dinkarrao Patil	Graduate Teacher	17/06/2009	HSC Ded	Undar Graduate Teacher	01/09/2021	2001	2001	3 Year 1 Month	Uneligible
8	5185	Anandrao Maruti Rane	Graduate Teacher	02/07/2009	HSC Ded	Undar Graduate Teacher	01/09/2021	2003	2003	3 Year 1 Month	Uneligible
9	5544	Satuppa Subrao Patil	Graduate Teacher	30/07/2010	HSC Ded	Undar Graduate Teacher	01/09/2021	2005	2005	3 Year 1 Month	Uneligible

17. From the perusal of this chart, it is clear that the petitioners have obtained the qualification of Trained Graduate Teacher long back and, as on the date of publication of the earlier seniority list, they were possessing experience of Trained Graduate Teacher for more than 3 years. This aspect was required to be considered by the respondent Zilla Parishad, Kolhapur in the matter.

18. The respondent Zilla Parishad, Kolhapur has relied the Government Resolution dated 27.09.2023 and made a statement that as the qualification is now revised by the State Government, they are bound by the Government Resolution. Accordingly, we have perused the Government Resolution dated 27.09.2023. The Government Resolution specifically states that it will be made applicable from the date of its publication. As such, same is applicable w.e.f. 27.09.2023. In the circumstances, when Resolution itself expressly states that it would be made applicable prospectively, the submission of petitioners to apply to petitioners' case retrospectively cannot be accepted in the matter.

19. In light of the above, it is clear that the petitioners are entitled to be considered for promotion to the post of Cluster Head on the basis of their qualifications and seniority. However, the respondent Zilla Parishad, Kolhapur has wrongly placed reliance on the Government Resolution dated 27.09.2023 and thereby denied their legitimate claim.

20. At this stage, it is noted that the intervenors have already been promoted to the post of Cluster Head. But, learned counsel for the petitioners, on instructions, has made a fair statement that the promotions granted to the intervenors shall not be affected and their claim shall be considered independently by the respondent Zilla Parishad, Kolhapur, on the available vacant post or post which are likely available in near future.

21. In light of above discussion, Respondent Nos.4 and 5 i.e. Zilla Parishad, Kolhapur and Education Officer (Primary) Zilla Parishad, Kolhapur are directed to consider claim of petitioners against the post of Cluster Head (Kendra-Pramukh) on available vacant post or the post which are likely to be falls vacant in near future as expeditiously as possible and, in any event, within a period of three months from the date of this order.

22. With the above observations, the petition stands disposed of.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]