

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

WRIT PETITION NO. 5199/2025

1. Shri. Kishor Namdev Ghungarad
Age: 34 years, Occupation: service
Address: Shri. uday Garments, Opposite
Janata Bank, Navadi, Sangameshwar
Taluka Sangameshwar, District Ratnagiri

... Petitioners

Versus

1. The State of Maharashtra
Through the Secretary
School Education & Sports Department)
Mantralaya, Mumbai - 400 032

2. The Commissioner of Education
School Education Department
Maharashtra State, Pune

3. The Director of Education
(Secondary and Higher Secondary)
Maharashtra State, Pune – 1

4. The Deputy Director of Education
Kolhapur Region, Kolhapur

5. The Education Officer (Secondary)
Zilla Parishad, Ratnagiri
Having Office at Bharat Ratna
Dr. Babasaheb Ambedkar Bhavan
Mal Naka, Ratnagiri - 415 612

6. Vyapari Paisa Fund Society
Sangameshwar, Taluka Sangameshwar)
District Ratnagiri
Through its President / Secretary

7. Paisa Fund English School and
Junior College of Science
Sangameshwar, Taluka Sangameshwar
District Ratnagiri
Through its Head Master

...Respondents

.....
Shri Chetan Patil i/b Shri Mandar G. Bagkar, Advocate for the Petitioner.
Shri S.B. Kalel, AGP for the Respondent - State.
.....

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

DATE : 22.04.2026.

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

1. Heard. Rule made returnable forthwith with the consent of parties.
2. The petitioner filed the present petition challenging the order passed by the Education Officer by rejecting the proposal for individual approval of petitioner vide order dated 27.08.2024. The present petition is the second round to redress his grievance before this Court. In the earlier round of litigation, the Education Officer has rejected the proposal by order dated 26.09.2019. The said order was challenged before this Court in Writ Petition No.1874/2020. This Court by considering the fact that the opportunity of hearing was not granted and there was no consideration of the submission of the petitioner and the Management,

directed the respondent Education Officer to decide the proposal afresh. In view of the direction issued by this Court, the Education Officer decided the proposal and by the impugned order dated 27.08.2024 rejected the proposal of approval of petitioner.

3. The perusal of the impugned order shows that the proposal is rejected only on the ground that as per the approved roster of the School, there are two posts lying vacant in the Scheduled Castes Category. However, by violating the norms of the roster, the respondent Nos.6 and 7 Management have appointed the petitioner, who belongs to Open Category, hence on this count alone, rejected the proposal.

4. The petitioner, in order to substantiate his submissions, has relied upon the advertisement issued by respondent Nos. 6 and 7 in the daily newspaper “Ratnagiri Express” dated 11.06.2014. The said advertisement specifically indicated that the post was from the Open category. Accordingly, the petitioner applied for the said post and was appointed to teach the subject of Sanskrit in respondent No.7 School. Hence, according to the petitioner, there is no fault on his part in the matter and, therefore, the Education Officer should not have rejected his approval for the reasons stated in the impugned order.

5. A perusal of the record shows that there is a resolution passed by the Management dated 28.06.2014, wherein it is discussed and resolved

that the subject of Sanskrit has been taught in the school for the last 40 years. One Shri Laxman Appanne Lohar who was appointed in the school to teach subject “Sanskrit” attained the age of superannuation on 30.11.2014, and since then, the post of Sanskrit teacher for Classes 8 to 10 was lying vacant. It is further recorded in the resolution that parents had made request to the school authorities seeking appointment of a teacher for the subject of Sanskrit. In this background, the Management issued an advertisement on 11.06.2014 and appointed the petitioner to the said vacant post.

6. It is further pertinent to note that the petitioner has placed on record a document dated 23.11.2020 obtained under the Right to Information Act. A perusal of the said document shows that since 2013, no surplus teacher for the subject of Sanskrit is available in the district. In this factual background, it is evident that the Management was required to appoint a candidate like the petitioner to the post, which was lying vacant since the year 2014.

7. Learned Counsel for petitioner also relied upon the judgment of this Court in the case of *Shailesh Deepak Ambare and another Vs. State of Maharashtra and another reported in (2021) 1 High Court Cases (Bom) 466*, wherein this Court observed in paragraph Nos.19, 24 and 25 as under:

“19. With respect to the first issue at hand, we observe from the decision in Sudhagad Education Society case that a Single Judge of this Court has answered this question in para 4 of the said decision, which is quoted as under:

“4. The short question which falls for consideration before this Court is whether the Deputy Director of Education had erred in refusing to grant approval to teachers who are appointed from the open category merely on the ground that the backlog of reserved category candidates has not been filled in by the management.”

24. In the said decision this Court has observed that the petitioners belonging to open category can be adjusted against the posts for open category. Para 5 of the said decision is relevant and is quoted as under:

"5. Considering the above, it would be clear that the petitioners can be adjusted against the posts for open category. However, that would require Respondents 3 and 4 to make an application for approval to Respondent 2 afresh on the basis as if there were regular vacancies when Petitioners 1, 2 and subsequently Petitioner 3 were appointed. Considering the above the following directions:

Respondents 3 and 4 after working out the vacancies after excluding 34% of the posts which are reserved for backward class candidates to consider whether Petitioners 1 and 2 can be approved from the Academic Year 2000-2001 or subsequent thereto against vacancies for open category candidates, to apply to Respondent 2 for approval and similarly for Petitioner 3 from the Academic Year 2002-2003. Respondent 2 after working out the reservation and if the appointment of the petitioners is against open posts, to grant approval from the aforesaid dates or such other dates from which seats become available in the open category. Respondents 3 and 4 to submit the proposal to Respondent 2 within eight weeks from today. Respondent 2 within six weeks thereafter to decide the same in accordance with law and

intimate the same to the petitioners and Respondents 3 and 4. If the approval is granted Respondent 2 to release the salary grants from the dates when the said posts have become aided."

25. In view of the aforesaid discussion, in the facts of this case as well, we see no reason to take a different view other than to say that there is no justification for the Deputy Director of Education to refuse to grant the approval to the appointment of Petitioner 1 in the open category on the ground that there was a backlog with respect to one SC and ST category."

8. In light of the aforesaid factual and legal position, we are of the opinion that the rejection of the petitioner's proposal for individual approval to the post of Assistant Teacher for the subject of Sanskrit, by the impugned order dated 27.08.2024, solely on the ground that the roster is not properly maintained or that the backlog is not fulfilled, is not justified in the facts and circumstances of the case.

9. In the circumstances, the Education Officer is directed to grant approval to the appointment of the petitioner as per the proposal of respondent Nos.6 and 7 dated 23.08.2024. After the grant of proposal, forward his case for inclusion of his name in the Shalarth Pranali and accordingly, generate the Shalarth ID as expeditiously as possible in light of the time limit formulated by the State Government in terms of the Government Resolution dated 10.06.2022.

10. The respondent Nos.6 and 7 are directed to submit an undertaking

to the effect that they will fulfill the backlog and no appointment from the Open Category will be made till the backlog is fulfilled. This undertaking be filed within a period of 15 days from the date of this order.

11. Failure to file the undertaking, the Education Officer will be at liberty to take appropriate decision in the matter.

12. With above directions, the Writ Petition stands disposed of. No order as to the costs.

RANJANA
SAMEER
SAHARE

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RANJANA SAMEER
SAHARE
Date: 2026.04.27
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[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]

R.S. Sahare