

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

WRIT PETITION NO. 8419 OF 2025

Jambu S/o Babu
Valavade And Ors
Versus

...Petitioners

The State Of Maharashtra Thr
Sec. Finance Dept. And Ors

...Respondents

Mr. Arvind G. Ambetkar (Through VC) a/w. Mrs. Surekha H. Kamble,
Advocate for petitioner.

Ms. Tajas J. Kapre, AGP for respondents-State.

Coram : Madhav J. Jamdar &
Pravin S. Patil, JJ.

Date : April 22, 2026.

P. C. :

1. In this petition, challenge is to the order dated 19th June 2023 passed by the Deputy Director of Education, whereby the Deputy Director of Education held that the school/college where the petitioner was rendering service was receiving 100% grant-in-aid before the cut-off date, i.e., 1st November 2005. However, he has rejected the proposal of the petitioner to grant the benefit of the old pension scheme by relying upon

the Maharashtra Aided and Recognised Secondary Schools Provident Fund Rules, 1977 and Government Resolutions dated 31st October 2005 and 29th November 2010.

2. In light of this factual aspect, it would be relevant to refer to the judgment delivered by the Coordinate Bench of this Court in the case of *Nilesh s/o Namdev Gurav & Ors. vs. State of Maharashtra & Ors.*, reported in 2022 (3) Mh.L.J. 615. The Coordinate Bench of this Court, while considering an identical issue, has recorded specific findings in paragraph Nos. 15 and 17, which read thus:

“15. The Division Bench in the recent decision in Renuka Chandrabhan Umredkar (supra) after referring to the above referred decisions held that the Respondent-State could not overlook the fact that the Petitioner therein was appointed as part-time Librarian on aided post in 100% aided school and the said appointment was duly approved by the Education Officer. The Respondents-State thus, could not refuse to give benefit of 50% of services rendered by the Petitioner therein as part-time Librarian prior to 1st November, 2005 for computation of pensionable services along with the services rendered by the Petitioners on full time basis after 31st October, 2005. The entitlement of the Petitioner for pension under the old pension scheme would be on the basis of initial date of appointment as part-time Librarian on aided post and not on the basis of appointment as full time Librarian under DCP Scheme. It has accordingly, been held that the Petitioner would be governed by the old pension scheme and not DCP Scheme introduced on 31st October, 2005.

17. It is noted that Respondents have in the Charts annexed to the said Affidavits singled out the case of Petitioner No. 6 in Writ Petition No. 4748 of 2019 by stating that he was an employee on unaided post. However, it is clear from the Government Resolution dated 19th July, 2011 that what is to be taken into consideration is whether the educational institution is a fully aided educational institution, receiving 100% aid from the Government Resolution and not whether particular post is aided or not.”

3. The Coordinate Bench has specifically held that part-time teachers working in a school which was receiving 100% grant before the cut-off date are entitled to the old pension scheme. The same view has been consistently followed by this Court in a catena of judgments.
4. Learned AGP has pointed out that the judgment in *Nilesh Namdev Gurav (supra)* has been challenged by the State Government before the Hon'ble Supreme Court, and the same is pending for final disposal. However, there is no interim order passed by the Hon'ble Supreme Court of India till date in the matter. In this factual scenario, in our considered opinion, the view taken by the Coordinate Bench of this Court in *Nilesh Namdev Gurav (supra)*, which has been consistently followed in a catena of judgments, deserves to be followed.
5. In the present matter, once Deputy Director of Education held that institute was receiving 100% grant-in-aid before cut off date and appointment of petitioners in their respective institute was before cut off date, the Deputy Director of Education committed an error to reject the proposal by relying upon the provisions of other Act which are not relevant to decide the issue of their entitlement of old pension scheme. Hence, the same deserves to be quashed and set aside.
6. In view of the above, we pass the following order:

- (i) The writ petition is partly allowed.
- (ii) The impugned order dated 19th June 2023 passed by Deputy Director of Education, Kolhapur is hereby quashed and set aside.
- (iii) The Deputy Director of Education, Kolhapur is hereby directed to re-consider the proposals of the petitioners in light of the directions issued by the Coordinate Bench of this Court in Nilesh s/o. Namdev Gurav V/s. State of Maharashtra, as reproduced above, within a period of three months from the date of this order.

7. With the above directions, the writ petition stands disposed of. There shall be no order as to costs.

[Pravin S. Patil, J.]

[Madhav J. Jamdar, J.]