

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

WRIT PETITION NO. 758 OF 2026

Bhartiya Shikshan Prasarak Mandal And Anr. ...Petitioners

VERSUS

Sanjay Tukaram Naik And Ors. ...Respondents

Mr. Anand S. Patil (Through V.C.) a/w Ms. Vaishnavi Shelake,
Advocate for Petitioners.

Mr. J.P. Patil, AGP for the Respondent – State.

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 18th FEBRUARY, 2026

P.C.

1. By this Petition filed under Article 227 of the Constitution of India, the Petitioners challenge the order dated 09.12.2025 passed by the learned Presiding Officer, School Tribunal, Kolhapur below Exhibit-46, thereby refusing to frame preliminary issues at the instance of the Petitioners.

2. The Respondent No.1 challenged his termination order dated 05.10.2011 by filing the said appeal. The Petitioners appeared in the appeal and filed an application at Exhibit-46 contending that the Respondent No.1 was appointed on temporary basis on the post of Peon and the said appointment was made without following due procedure of law and he was not qualified for the said post.

Therefore, the Petitioners are unnecessarily made party in the appeal, therefore a preliminary issue is required to be framed in the present appeal. The Tribunal after obtaining the say of the Respondents/Appellants, rejected the said application. Hence, the present Petition.

3. Learned Advocate for the Petitioners by relying on the decision of this Court at Nagpur Bench in the case of ***Rajiv Shikshan Sanstha Through It's President Versus State of Maharashtra***¹ submitted that it is mandatory on the part of the School Tribunal to frame preliminary issue in terms of the said Judgment.

4. Heard learned Advocate for the Petitioner and learned AGP at length. Perused the Memo of Writ Petition, annexures and the impugned order.

5. The bone contention of the Petitioners is that the appointment of Respondent No.1 was made on temporary basis and no due procedure was followed while appointing him. The appellant has not filed necessary documents in support of the appeal. The appeal suffers from non-joinder of necessary parties and mis-joinder of unnecessary parties. Thus, preliminary issues regarding these objections are required to be framed.

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6. Learned AGP on the other hand supported the impugned order.

7. The record indicates that the respondent No.1 was terminated after conducting departmental inquiry, this itself is sufficient to show that he was a permanent employee and therefore, he was terminated after holding departmental inquiry. Therefore, there is no merit in the contention of the Petitioners that preliminary issue that whether Petitioner was appointed by following due procedure is required to be framed in the present matter.

8. The record shows that the appeal was registered on 20.06.2023 after appearance, the Petitioners filed written statement on 06.09.2024, thereafter, the matter was fixed for production of documents. The appellant has filed evidence closure pursis on 11.07.2025 and the matter was adjourned for defence evidence from 24.07.2025. Thus, when the matter was pending for defence evidence, the Petitioners have filed the present Petition, which appears to have been filed with a view to prolong the matter. The Tribunal has assigned proper reasons and there is no error of law or jurisdictional error committed by the Tribunal while rejecting the application.

9. No case is made out by the Petitioners to exercise extraordinary writ jurisdiction. The Petition is therefore dismissed with cost of Rs.10,000/, which the Petitioners shall pay to the Respondent No.1- employee before the School Tribunal on the next date of hearing.

(NITIN B. SURYAWANSHI, J.)