

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

WRIT PETITION NO. 1747 OF 2026

Sayara Faijulla Pailwan
Versus

...Petitioner

The State Of Maharashtra Thr.
Its Secretary And Others

...Respondents

WITH

WRIT PETITION NO. 5218 OF 2024

Sanjay Narayan Kale
Versus

...Petitioner

The State Of Maharashtra Thr
Its Secretary And Ors

...Respondents

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

Ms. Tejas J. Kapre, AGP for respondents-State in WP/5218/2024.

Mr. Vikas M. Mali, AGP for respondents-State in WP/1747/2024.

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

Date : **April 22, 2026.**

P. C. :

1. In both these petitions, the petitioners have restricted their prayer
for issuing direction to the respondent – Deputy Director of Education to

consider their part-time service rendered before the cut-off date, i.e., 1st November 2005, for receiving the benefit under the old pension scheme.

2. The learned AGP has pointed out the judgment delivered by this Court in Writ Petition No. 2345 of 2014 (*Maharashtra Rajya Madhyamik Va Uccha Madhyamik Shala Kruti Samittee vs. State of Maharashtra & Ors.*). The Coordinate Bench of this Court, considering the large number of cases pending on the file of different Benches of this Court, has issued directions, which read as under in paragraph No. 17:

“17. In view of the above, these Petitions are disposed off with the following directions:-

(a) The cases of these Petitioners (working in Junior colleges) including those persons who are represented by a Union or an Action Committee, or those who have not approached the Court, would be placed before the respective Deputy Director of Education of the said Division. In the case of the schools, the proposals would be tendered to the Education Officer, who would transmit them to the Deputy Director of Education. In the case of Junior College Employees, their respective Managements would forward their proposals directly to the Deputy Director of Education.

(b) Let the above exercise be completed by the respective employers within a period of 45 days from the date of the uploading of this final order on the official website of the Bombay High Court. Parties are at liberty to act on the printout of this final order downloaded from the official website.

(c) After the Deputy Director of Education of the respective regions receive such proposals, a meticulous scrutiny of the records would be carried out with the assistance of the Management. While sending the proposals, the Managements would mention their e-mail addresses on the proposals for easy correspondence so as to enable the Deputy Director of Education to seek clarification or assistance or solicit further information, as the case may be.

(d) All the proposals would be scrutinised, preferably by 30th September, 2025.

(e) The concerned Deputy Director of Education would pass individual orders in the case of each candidate mentioned in the proposal. Those who are already retired would be given a

priority and their proposals would be decided first. Those who are close to retirement, their proposals would be taken up thereafter and those who have a sufficiently long duration for retirement, would be taken up thereafter.

(f) In matters wherein the proposals are negatived, the Deputy Director would assign reasons which would indicate the basis of the rejection. We clarify that his order must clearly indicate the reasons for the refusal of the Old Pension Scheme to a particular candidate.

(g) We make it clear to the Managements of all Schools and Colleges over the State of Maharashtra that they would forward the proposals as directed above, not only with regard to those Petitioners or candidates who were able to reach the Court by filing Petitions, and would include even those candidates who are the employees on its rolls and forward their proposals also to avoid further litigation or inflow of new matters. In short, those candidates who are employees and not before the Court would also be the beneficiaries of this order and the respective employers would also forward their proposal along with proposals of these Petitioners.

(h) Until the decision of the Hon'ble Supreme Court is delivered in the Special Leave Petition (SLP) filed by the State Government challenging the view taken by the Division Bench in Nilesh Namdev Gurav (supra) and the proceedings initiated by individuals before the Hon'ble Supreme Court [assailing the view taken by the learned Full Bench of this Court in Deshmukh Dilipkumar Bhagwan and Others (supra)], the Deputy Director of Education would follow the law as is laid down in Deshmukh Dilipkumar Bhagwan and Others (supra) and Nilesh Namdev Gurav (supra). In the event, the Hon'ble Supreme Court delivers an order in Deshmukh Dilipkumar Bhagwan and Others (supra) and/or Nilesh Namdev Gurav (supra), the said Authority would be obliged to follow the view and the directions set out by the Hon'ble Supreme in such judgment.

3. The perusal of the record of both these petitions shows that the petitioners have rendered part-time service before the cut-off date and have received approval as full-time Assistant Teachers after the cut-off date. As such, their cases are governed by the judgment delivered by the Coordinate Bench in the case of ***Nilesh s/o. Namdev Gurav & Ors. Vs. The State of Maharashtra & Ors.*** reported in ***2022 (3) Mh. L.J. 615***, wherein

in paragraph Nos.15 and 17, observed as under:

“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.”

4. In light of above, both the petitions are partly allowed.
5. The respondent – Deputy Director of Education, Kolhapur is directed to decide the pending proposal of the petitioners within a period of eight weeks from the date of this order.
6. In case the Deputy Director of Education is not satisfied about the entitlement of petitioners then grant such individual petitioner opportunity of hearing and then by recording reasons pass the order and communicate the same to concern within four weeks from the date of

passing order.

7. Accordingly, the writ petitions stand disposed of. There shall be no order as to costs.

[Pravin S. Patil, J.]

[Madhav J. Jamdar, J.]