

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

WRIT PETITION NO. 874 OF 2025

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Swati Rajaram Badak
@ Swati Santosh Devkar & Anr.Petitioners

Versus

The State of Maharashtra & Anr.Respondents

Mr. Suresh Pakale, Senior Advocate a/w. Mr. Nilesh Desai i/b. Ms. Padmaja Malgaonkar, for Petitioners.

Mr. V. G. Badgujar, AGP for State.

Ms. Priyanka Chavan, for Respondent/Union of India.

Advocate Ameya Borwankar, for Respondent No. 8.

**CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.**

DATE : 22nd JANUARY, 2026

P.C. :-

1. The learned Senior Advocate appearing for the Petitioners submits, on instructions, that Prayer Clause (A) is not pressed and the same stands deleted from Paragraph No. 53. The deletion be carried out forthwith.

2. Considering the peculiar controversy before us as to whether the Old Pension Scheme (OPS) or the Defined Contributory Pension Scheme (DCPS) would apply to the case of the Petitioners,

we do not find that we require any assistance in deciding the same, from Respondent No. 7 or Respondent No. 8. Both are formal parties. This call has to be taken by Respondent No. 6 in the light of the Government Resolution dated 02.02.2024.

3. It is undisputed that the chart at Page No. 74 of the Petition Paper-book indicates the date of advertisement to be 11.05.2005. There were 775 vacancies with Respondent No. 5 Pune Zilla Parishad. The Zilla Parishad declared the Select List on merits, on 03.08.2005. On the said date, the appointment orders were issued to a particular lot of employees, comprising about 250 candidates. The first batch, comprising candidates who were also interviewed earlier along with all others, was appointed on 03.08.2005. The second batch was appointed on 13.09.2005. The third batch, comprising the Petitioners, was waiting in turn to receive the appointment orders. Since a delay occurred at the behest of Respondent No. 5, the Zilla Parishad recommended the names of the Petitioners to Saswad Nagarpalika (Education Board). The said Council is said to have again interviewed the Petitioners on 03.05.2006 and the dates of appointments are 03.05.2006, 04.07.2006 and 27.09.2006.

4. The learned Advocate for the Zilla Parishad submits that he cannot argue against the record and the Government Resolution dated 02.02.2024 covers the case of the Petitioners. The learned Senior Advocate for the Petitioners relies upon an order passed by the Full Bench of this Court dated 19.04.2024 Review Application no. 233 of 2023 in Writ Petition No. 1615 of 2023 (*Vasantrao Naik Marathwada Krishi Vidyapeeth vs. Ganpat Maruti Sutare and another*) wherein the circumstances in which the Government Resolution dated 02.02.2024 was issued, have been considered.

5. This, therefore, indicates that if the selection process has commenced prior to the cut-off date, i.e., 31.10.2005, and out of the same selection process, if the appointments are made subsequently, the appointees would be covered by the Old Pension Scheme. In the instant case, Respondent No. 5 issued appointment letters to two sets of selected employees from the same selection process, prior to 31.10.2005. It is only these Petitioners from the same group of the select list, who have been appointed after 31.10.2005.

6. In view of the above, we declare that these Petitioners would be covered by the Old Pension Scheme and since they are in employment today, they are not required to contribute to the DCPS.

7. With the above observations, **this Petition is disposed off.**

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)