

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

WRIT PETITION NO. 2931 OF 2025

Prabhakar Deoman Pendhari
Aged 48 Years, Occ. Service,
R/o. Dighvad, Tal. Chandwad,
Dist. Nashik.

... Petitioner

Versus

- 1] The State of Maharashtra
Through the Secretary,
School Education Department,
Mantralaya, Mumbai – 400 032
 - 2] The Deputy Director of Education,
Nashik Region, Nashik.
 - 3] The Education Officer [Secondary],
Zilla Parishad, Nashik.
 - 4] Shri Shivaji Vidya Prasarak Mandal,
Dighvad, Tal. Chandwad,
Dist. Nashik. Through its President/
Secretary.
 - 5] Swami Vivekanand Vidyalay,
Dighvad, Tal. Chandwad,
Dist. Nashik, Through its Head Master
- ... Respondents

...

Mr.Vinayak R. Kumbhar with Mr.Rajendra B. Khaire and Mr.Aniket S. Phapale i/b. Ms.Ashwini N.Bandiwadekar for the Petitioner.

Mr.PPKakade, Addl.GP with Ms.Priyanka Chavan, AGP for Respondent Nos. 1 to 3, State.

Mr.Rameshwar Gite for Respondent Nos. 4 and 5.

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

DATE : JANUARY 13, 2026

ORAL JUDGMENT : (*Per: Ravindra V. Ghuge, J.*)

1. **Rule.** Rule made returnable forthwith and heard finally, by the consent of the parties.

2. The Petitioner was appointed as a Part-Time Librarian with Respondent No. 5 School, on 19.01.2000. The School was an unaided establishment conducted by Respondent No. 4 Management. At the time of appointment, the Petitioner acquired the qualifications of B.A. and Librarian Training Certificate (L.T.C.) Subsequently, in April 2002, the Petitioner acquired the qualification of Bachelor of Education (Physical Education), and he also passed M.A. in May 2009. On the basis of the educational qualifications prescribed for a teaching post, he became eligible for up-gradation from the post of Part-Time Librarian to a sanctioned post of Asst.Teacher. Accordingly, his case was considered, and Respondent No. 3 Education Officer (Secondary) granted approval to the

Petitioner as a Full-Time Shikshan Sevak on 14.07.2020. He was allotted a Shalarth ID by an order dated 19.07.2021. Thereafter, on 12.07.2024, Respondent No. 3 granted approval to the Petitioner as a Full-Time Assistant Teacher.

3. The grievance of the Petitioner rests on a judicial pronouncement dated 21.12.2023, delivered by the Division Bench of this Court in Writ Petition No. 7706 of 2022 (***Shri Suhas s/o Rangraoji More versus State of Maharashtra and Others***). This Court concluded in paragraph Nos. 14 to 16 as under:

“14. The question which therefore arises is whether the petitioner could have been promoted to the post of Physical Training Teacher/Shikshan Sevak on an honorarium of Rs. 8,000/- per month, while his last drawn salary was over Rs. 45,000/- per month. It need not be emphasized that in general parlance promotion refers to upward movement in job leading to greater additional responsibility and higher pay scale and allowances. Consequently, fixing honorarium of Rs.8,000/- as against last drawn salary of Rs.45,000/- would be far from promotion and would infact actually amount to demotion. Hence, reduction of salary from Rs. 45,000/-per month to below Rs.10,000/- under the garb of fresh appointment is ridiculously absurd, arbitrary and unjustified.

15. It is contended that the petitioner was appointed as per Clause 8 of Government Resolution dated 10.06.2005, which permits the

private school to appoint Shikshan Sevak on payment of honorarium. The said GR was issued to overcome difficulties faced by the Regional Authorities in implementing the Shikshan Sevak Scheme. The Scheme contemplates that the appointment of Shikshan Sevak shall not be less than three years and upon approval of the appointment by Education Officer, the Government would pay him a fixed sum as honorarium. On completion of probation of period of three years Shikshan Sevak is deemed to have been appointed and confirmed as a teacher. Though, the services of Shikshan Sevak are no longer contractual, yet their services can be terminated during the probation period with one month notice, if during the said period the work or behaviour is not satisfactory.

16. In this regard, it needs to be noted that the petitioner was appointed as a Peon on a regular permanent post. His promotion as Shikshan Sevak deprives him of the pay scale as well as other service benefits that he enjoyed in the post of lower grade. Evidently, such promotion does not enhance his prospect but severally prejudices his interest in every way. This anomaly can only be obliterated by treating the promotional post as that of the Assistant Teacher and by granting regular pay scale and other service benefits enjoyed by Assistant Teacher, albeit, the promotional post is termed as Shikshan Sevak.”

4. The Petitioner has, therefore, put forth prayer clauses (b) and (c), which read as under:

“b] By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent Nos. 4 and 5 to issue the order of

appointment / up-gradation to the Petitioner as Full Time Assistant Teacher in pay scale at the Respondent No. 5 school with effect from 1.7.2019, and thereafter to submit the proposal to the Respondent No. 3 to grant approval to the said up-gradation of the Petitioner as Full Time Assistant Teacher in pay scale.

c] After receipt of the proposal, as mentioned in prayer clause [b] above, by a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 3 to revise the approval order dated 14.7.2020 [EXHIBIT-K] and to grant approval to the Petitioner as a Full Time Assistant Teacher at the Respondent No. 5 school on payment of salary in pay scale / Pay Matrix and to release the grant-in-aid for payment of salary in pay scale with effect from 1.7.2019, after deducting the amount of monthly honorarium paid to the Petitioner from 1.7.2019 to 30.6.2022.”

5. Considering the above and in the light of the judicial pronouncement of this Court, Respondent No. 3 should have considered the case of the Petitioner for up-gradation to the post of Assistant Teacher, keeping in view that he was appointed as a Part-Time Librarian in the year 2000 and that he acquired the qualification entitling him to such up-gradation in the year 2002, when he acquired the degree of Bachelor of Education (Physical Education), thereby becoming eligible for appointment as an

Assistant Teacher in Physical Education.

6. Today, the confusion is on account of the proposal forwarded by the Head Master on 08.08.2019 when the law crystallized by this Court was not to the assistance of either the management or the Education Officer. The matter will, therefore, have to be set right in the light of the judgment dated 21.12.2023. We accordingly direct the management to prepare an appropriate proposal indicating that the Petitioner would be entitled to up-gradation as an Assistant Teacher from the date on which he acquired the requisite qualifications, in the light of the judgment in *Shri Suhas s/o Rangraoji More (supra)*. The said up-gradation would be effected from the date on which the post of Assistant Teacher became vacant after the incumbent Assistant Teacher was promoted as Head Master.

7. Let such proposal be submitted to Respondent No. 3 within a period of 30 days from today. Respondent No. 3 would consider the proposal in the light of the judgment of this Court in *Shri Suhas s/o Rangraoji More (supra)* and pass a reasoned order by

rectifying the records within a further period of 21 days. The order shall be communicated to the management, which shall, in turn, convey the same to the Petitioner.

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

9. Rule is discharged.

(ABHAY J.MANTRI, J.)

(RAVINDRA V. GHUGE, J.)