



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 1245 OF 2024

Ku.Archana d/o Uttamrao Pathade
(Now Sou.Archana w/o Onkar Kadawe),
Aged about 35 years, Occupation : Service,
R/o Thanegaon, Tahsil Karanja (Ghadge),
District : Wardha. **PETITIONER**

// VERSUS //

- 1) **The State of Maharashtra,**
through its Secretary,
Department of Secondary &
Higher Secondary Education,
Mantralaya, Mumbai-400032.
- 2) **The Education Officer (Secondary),**
Zilla Parishad, Wardha.
- 3) **The Divisional Deputy Director
of Education,** Nagpur Division,
Nagpur.
- 4) **Saraswati Mata Vidya Prasarak Mandal,**
Thanegaon, Tahsil Karanja (Ghadge),
District Wardha, through its President.
- 5) **Ravindra Hariramji Munne,**
Aged about 57 years, Occ. Business
R/O Gopal Nagar Nagpur **RESPONDENTS**

Respondent
No.5, added as
per Court's
order
dt.12.9.2024

Mr. A. Z. Jibhkate, Advocate for the Petitioner.
Mr. S. V. Narale, Assistant Government Pleader for
Respondent Nos.1 to 3.
Mr. C. B. Dharmadhikari, Advocate for Respondent No.4.
Mr. S. V. Manohar, Senior Advocate assisted by Mr. S. D.
Abhyankar, Advocate for Respondent No.5.

**CORAM : MRS. M. S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.**

DATE ON RESERVING THE JUDGMENT : 14/01/2026
DATE ON PRONOUNCING THE JUDGMENT : 29/01/2026

JUDGMENT : (Per – M. S. JAWALKAR, J.)

1. Heard. **Rule.** Rule is made returnable forthwith. Matter is taken up for final hearing at the stage of admission by consent and request of the parties.

2. The Petitioner by this petition herein, is challenging the order dated 29/01/2024, passed by Respondent No. 2 - Education Officer, Secondary, Zilla Parishad, Wardha, which refused approval of her appointment as 'Assistant Teacher'. She belongs to the Other Backward Community (OBC) category and meets all required academic and professional qualifications.

3. It is contended by the Petitioner that Respondent No. 2 sanctioned 42 teaching posts for schools under Respondent No. 4. Out of which, 34 posts were filled and 8 post of Assistant Teachers were vacant and these were advertised in the daily Newspaper 'Lokmat' on 25/06/2011, reserving three posts (ST-1, SC-1, SBC-1). The Petitioner applied in the open

category, and was selected and appointed as Shikshan Sevak on 18/07/2011 at Navprabhat Vidya Mandir, Thanegaon, Tahsil Karanja, District Wardha for 2011-2014. The Petitioner joined on sanctioned vacant aided post of Assistant Teacher (Middle School) and has served continuously.

4. The Petitioner submits that due to administrative reasons and stay on approval camps, proposals for approval submitted by Respondent No.4 in respect of the Petitioner were not decided despite being presented in the approval camps held on 12/08/2013 and again on 19/01/2015. The Headmaster thereafter addressed a letter dated 04/02/2015 requesting early decision.

5. The Petitioner further submits that two teachers appointed pursuant to the same advertisement dated 25/06/2011, namely Shri D.M. Satkar and Shri N.S. Kamble. They approached this Court for seeking directions for grant of approval to their appointment and were granted approval by Respondent No.2 vide order dated 17/11/2015 from their original dates of appointment.

6. The Petitioner submits that although approval was granted to Shri Satkar and Shri Kamble, approval was refused to other teachers appointed through the same process vide order dated 29/01/2016, and no decision was taken on her proposal despite compliance submitted by Respondent No.4.

7. The Petitioner also submitted that no surplus teachers were available at the time of her appointment, which is supported by RTI information from Respondent No.2, and therefore the ground in the impugned order is unsustainable. The Petitioner urged that since similarly situated teachers were litigating their cases, she *bona fide* believed the outcome would govern her case as well. Ultimately, approvals were granted to Shri Bodkhe and Shri Ranghe in 2023, and the validity of appointments made pursuant to the advertisement dated 25/06/2011 was upheld by this Court.

8. The learned Counsel for the Petitioner in support of her contentions relied on the following citations-

- (i) ***Rajan Sahadeo Ratul & Anr. vs. State of Maharashtra & Anr., 2023(6) Mh.L.J. 234,***

- (ii) ***Writ Petition No. 2590 of 2023, Gopal s/o Siddeshwar Akhade & Ors. Vs. The State of Maharashtra & Ors.***, dated 28/08/2013 and
- (iii) ***Writ Petition No. 4960 of 2021, Ku. Jayshri d/o Rameshrao Bokade Vs. The State of Maharashtra & Ors.***, dated 12/03/2024.

9. Per contra, learned Counsel for Respondent No.2 submitted that Respondent No.4 runs four grant-in-aid schools in Wardha District and appointed the Petitioner as Middle School Shikshan Sevak at Navprabhat Vidya Mandir & Junior College, Thanegaon, Taluka Karanja, District Wardha, for a period of three years w.e.f. 18/07/2011 to 17/07/2014, and thereafter the Headmaster submitted a proposal dated 12/08/2013 to the Office of Respondent No.2 seeking approval to the said appointment. However, Respondent No.4 had published the advertisement dated 25/06/2011 and issued appointment orders without obtaining prior permission, which is in violation of applicable rules and Government Resolutions, and despite issuance of a Letter dated 29/06/2011 calling for explanation, failed to comply.

10. Respondent No.2 further submits that the Petitioner's appointment is illegal and therefore approval was rightly

refused, and the impugned order is just, proper and legal, warranting dismissal of the petition.

11. Respondent No.3 submits that a detailed reply was already filed on 12/12/2022 stating that no prior permission was obtained from the State authorities for the appointment of Shri Mangesh Bodkhe as Assistant Teacher. Pursuant to the directions of this Court dated 13/11/2025, Respondent No.3 revisited the letter dated 07/06/2011 and the advertisement relied upon by the Petitioner and verified the office records.

12. On scrutiny, it is contended that the letter dated 07/06/2011 (Letter No.587/2011) was issued by the Management to the Education Officer seeking surplus teachers and stating that, in their absence, the Management would proceed to advertise. It was not a No-Objection Certificate or permission granted by the Education Officer. Similarly, the advertisement only refers to the said communication and does not evidence any approval. Respondent No.3 therefore submits that the Petitioner and Management are misconstruing the said letter, and the contention that prior permission was granted is untenable.

13. The learned Counsel for Respondent No.4 submits that due to acute shortage of teachers, the institution had requested Respondent No.2 vide letter dated 07/06/2011 to depute surplus teachers for absorption, failing which it would be constrained to fill sanctioned vacancies as per rules. Despite personal follow-up and enquiry, it was informed that no surplus teachers were available and no such list was maintained at the relevant time. In these circumstances, and with the academic session 2011–2012 about to commence, the Institution published an advertisement on 25/06/2011 in a widely circulated newspaper and proceeded with recruitment.

14. Respondent No.4 further contends that appointments were made after due selection process and strictly in accordance with the reservation roster, with an effort to clear backlog vacancies in the Open and Scheduled Caste categories. It is therefore submitted that there was no violation of reservation policy or statutory provisions, and that all appointments were made after due compliance with applicable rules.

15. The learned Assistant Government Pleader relied on *Writ Petition No. 14064 of 2021, Santosh Laxmansa Gathadi .vs. The State of Maharashtra and others*, dated 08/12/2022.

16. The learned Senior Counsel Mr. S. V. Manohar for the Respondent No.5 vehemently opposed the petition on the ground that that the petition hit by delay and latches. The learned Senior Counsel relied on the following citations :

- (i) *Bhoop Singh Vs. Union of India and Ors., (1992) 3 SCC 136,*
- (ii) *Virender Chaudhary Vs. Bharat Petroleum Corporation & Ors., (2009) 1 SCC 297,*
- (iii) *New Delhi Municipal Council Vs. Pan Singh & Ors., (2007) 9 SCC 278* and
- (iv) *S. S. Balu & Anr. Vs. State of Kerala & Ors., (2009) 2 SCC 479.*

17. Heard learned counsel for the parties at length, carefully examined the pleadings and documents on record, and duly considered the authorities relied upon by the respective parties.

18. Admittedly, the Petitioner came to be appointed as “Shikshan Sevak” in Respondent No.4 School on 18/07/2011, however, it appears that there was no approval granted to the

appointment of the Petitioner, even a proposal was submitted in the year 2013. Thereafter, in the year 2015, the proposal of the Petitioner as well as other two teachers were submitted for grant of approval, however, in the year 2015 also approval was not granted to the appointment of the Petitioner, but two other teachers belonging to Scheduled Caste category were granted approval.

19. The learned Senior Counsel Mr. S. V. Manohar submitted that the petition is hit by delay and laches from her own pleadings in the petition. The Petitioner on coming to know regarding the approval granted vide order dated 09/11/2023, she approached to Respondent No.2 for grant of approval, however, the Respondent No.2 refused to accord approval to her appointment vide its order dated 29/01/2024. It is a matter of record that, since 2011 as the appointment of the Petitioner was not approved, she has not made any efforts or representations/complaint in respect of non-grant of approval.

20. So far as approval granted to Shri D.M. Satkar and Shri N.S. Kamble is concerned, they filed the writ petitions bearing Writ Petition No.4125/2015 and Writ Petition

No.4126/2015, and they were accorded with approval subject to order dated 10/09/2015, passed by this Court. The learned Counsel for the Petitioner submitted that the Petitioner also came to be appointed along with those teachers to whom the approval was granted and therefore, parity requires approval to be granted to the appointment of the Petitioner.

21. The learned Senior Counsel Mr. S. V. Manohar vehemently opposed the petition. It appears that there is a dispute in the management. There are two factions in the management of the Society. There was a challenged to the approval of the appointment order of Shri Satkar and Shri Kamble, however, said petition was dismissed by this Court on 11/04/2017 itself.

22. The learned Counsel for the Petitioner relied on ***Rajan Sahadeo Ratul*** (supra), wherein this Court observed in para 11 as under :

“11. We have also gone through the Government Resolutions (“GRs”) dated 6th February, 2012 as well as 23rd June, 2017, relied upon by Mr. Mali. The Department points to the duties cast upon the Management, as enumerated in the GR laying down the procedure to be followed by the Management in the selection process. Unfortunately, the Department

omits to act in aid of its own obligations detailed in the very same GR. The GR specifically casts a duty on the Department to nominate a surplus candidate to fill up a vacant post as soon as the Management informs the Department of a vacancy required to be filled. The GR specifies that the Department must discharge its obligation promptly and immediately upon receiving a request from the Management. The Department cannot selectively point to the duties of the Management without first performing its own duty and refuse approval on that ground.”

It is contended that there was no information about surplus teachers supplied by the Respondent Education Officer, the appointment in pursuant to the advertisement cannot be faulted with.

23. The learned Counsel for the Petitioner also placed reliance on ***Gopal s/o Siddheshwar Akhade*** (supra), wherein this Court observed that,

“Section 5(1) of the Maharashtra Employees of Private Schools (Conditions or Service) Regulation Act, 1977, there is no requirement of Management to seek prior permission for the appointments of the staff. The prior permission is required only for the reason to ascertain whether there is any suitable person available in the list of surplus persons maintained by the Education Officer for absorption in other schools and in the event of such person being available, the Management shall appoint that person in such vacancy.

24. The learned Counsel for the Petitioner along with Pursis filed a copy of order dated 12/03/2024, passed in ***Writ Petition No. 4960/2021*** (supra), however, after going through the order, it appears that there was a settlement between the Petitioner and Respondent Management, a fresh proposal was agreed to be submitted and in view thereof, the petition came to be disposed of.

25. The learned Assistant Government Pleader relied on the Judgment in ***Writ Petition No. 14064/2021*** (supra), wherein this Court held that the prior permission of the Education Officer is required to be obtained in view of Section 5 of the Maharashtra Employees of Private Schools (Conditions or Service) Regulation Act, 1977.

26. The learned Senior Counsel Mr. S. V. Manohar for the respondent No.5 vehemently opposed the petition on the ground that there was no prior permission before advertising the post in the year 2011. There are delay and laches on the part of the Petitioner in approaching the Court. Just because the other two persons got relief, it appears that she has filed the present petition. The learned Senior Counsel relied on ***Bhoop Singh***

(supra), in the said matter, there was mass termination of service of agitating police constables, subsequently some of them reinstated in service and some others thereupon promptly filing petitions before High Court/Tribunal and obtaining orders quashing their termination and consequential relief of reinstatement. The appellant therein filed the petition before Tribunal after 22 years after termination of his service claiming relief of reinstatement on the ground of discriminatory treatment in granting the same relief to his co-employee. The relief refused by the Tribunal on the ground of laches. The Hon'ble Apex Court held that in absence of any convincing explanation such highly belated claim rightly rejected by the Tribunal. What is held by the Hon'ble Apex Court is as under :

“It is expected of a Government servant who has a legitimate claim to approach the Court for the relief he seeks within a reasonable period, assuming no fixed period of limitation applies. This is necessary to avoid dislocating the administrative set-up after it has been functioning on a certain basis for years. During the interregnum those who have been working gain more experience and acquire rights which cannot be defeated casually by collateral entry of a person at a higher point without the benefit of actual experience during the period of his absence when he chose to remain silent for years before making the claim. Apart from the consequential benefits of reinstatement without actually working,

the impact on the administrative set-up and on other employees is a strong reason to decline consideration of a stale claim unless the delay is satisfactorily explained and is not attributable to the claimant. This is a material fact to be given due weight while considering the argument of discrimination in the present case for deciding whether the petitioner is in the same class as those who challenged their dismissal several years earlier and were consequently granted the relief of reinstatement.

Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly. A person cannot be permitted to challenge the termination of his service after a period of twenty-two years, without any cogent explanation for the inordinate delay, merely because others similarly dismissed had been reinstated as a result of their earlier petitions being allowed. The lapse of a much longer unexplained period of several years in the case of the petitioner is a strong reason to not classify him with the other dismissed constables who approached the Court earlier and got reinstatement. The argument of discrimination is, therefore, not available to the petitioner.”

In the present matter also, there is no explanation for not filing any proceedings since 2011 to 2024.

27. The learned Senior Counsel Mr. S. V. Manohar for the respondent No.5 also placed reliance on ***Virender Chaudhary*** (supra), wherein the Hon'ble Apex Court held that even if disqualification was unjustified however, the effect of delay and laches on the part of the respondent approaching the High Court are the relevant factors. A writ remedy is a discretionary remedy. The Court exercises its jurisdiction only upon satisfying itself that it would be equitable to do so.

28. The learned Senior Counsel for the Respondent No.5 also placed reliance on ***New Delhi Municipal Council*** (supra), wherein the Hon'ble Apex Court held that the writ petition was filed after 17 years, they did not agitate their grievance for a long time nor did they claim parity with the 17 workmen at the earliest possible opportunity. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time. Although, there is no period of limitation provided for filing a writ petition under Article 226 of the Constitution of India, ordinarily, writ petition should be filed within a reasonable time.

It is submitted that even if candidates are similarly situated, relief can be denied if they approached to the Court after a long period.

29. The learned Senior Counsel for the Respondent No.5 also placed reliance on ***S. S. Balu Vs. State of Kerala*** (supra), wherein the Hon'ble Apex Court relying on the Judgment of ***New Delhi Municipal Council Vs. Pan Sing*** (supra) held that,

“It is well settled principle of law that “delay defeats equity”. The Government Order was issued on 15-1-2002. The appellants did not file any writ application questioning the legality and validity thereof. Only after the writ petitions filed by others were allowed and the State of Kerala preferred an appeal there against, they impleaded themselves as party-respondents. It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.”

30. Thus, in view of above judgments of the Hon'ble Apex Court, though the Petitioner is similarly situated teacher, there is no plausible explanation for delay since 2011 to 2024. The Petitioner, on her own showing that the other two teachers got approval in the year 2015, even thereafter also, the Petitioner has not agitated her claim to this Court. Even from

that date also, there is delay of around 9 years. It is also not explained or claimed that she was continued by the Management and was paid during these 15 years.

31. As such, the petition hit by delay and laches and liable to be dismissed. Accordingly, the writ petition stands **dismissed**. No order as to costs.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)

Kirtak