



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

WRIT PETITION No.2214 OF 2025

Devendra Murari Pise,
Age 56 years, Occ. Service,
R/o R/o Shabir Jiwani Layout,
Sheshnagar ward, Tq. Bramhapuri,
Dist. Chandrapur : PETITIONER

...VERSUS...

1. The State of Maharashtra,
through Principal Secretary,
Skill Employment Entrepreneurship
and Innovation Department,
Mantralaya, Mumbai-32.
2. Director,
The Directorate of Vocational
Education and Training, Mumbai.
3. Joint Director of Vocational
Education and Training,
(Regional Office) Nagpur.
4. Shri Shivaji Shikshan Prasarak Mandal,
Sarafa Line, Dist. Gadchiroli,
Through its President.
5. Shivaji High School and Junior College,
Chamorshi, Dist. Gadchiroli,
through its Principal. : RESPONDENTS

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Mr. M.M. Sudame, Senior Advocate with Mr. Pritesh Atkar,
Advocate for Petitioner.
Mrs. M.S. Naik, Assistant Government Pleader for Respondent
Nos.1 to 3.
Mr. S.D. Zoting, Advocate for the Respondent No.4.

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CORAM : **SMT. M.S. JAWALKAR AND**
NANDESH S. DESHPANDE, JJ.
RESERVED ON : **14th JANUARY, 2026.**
PRONOUNCED ON : **23rd JANUARY, 2026.**

JUDGMENT : (Per : NANDESH S. DESHPANDE, J.)

1. Rule. Rule is made returnable forthwith. Heard finally by consent of the parties.

2. The petitioner was appointed as a Full Time Teacher at the respondent No.5 Junior College w.e.f. 1.12.1992 and his appointment was duly approved by the competent authority. The petitioner has approached this Court as his application for voluntary retirement has been rejected by the respondent Nos.3 and 4 citing the pendency of a Regular Criminal Case No.26/2018 before the Judicial Magistrate, First Class, Bramhapuri arising out of First Information Report registered against him for alleged preparation of forged documents for starting an Engineer College.

3. As can be seen from the averments made in the petition that due to deteriorating health and having completed more than 30 years of service he applied for voluntary retirement on 4.5.2022 but the said application in spite of being approved by the Management was rejected by respondent Nos.2 and 3 on 17.2.2023.

4. It is further stated in the petition that again the

petitioner vide application dated 15.12.2024 applied for voluntary retirement along with all documents showing medical ailment. The said application was rejected by the respondents on 3.3.2025 which is impugned in the present petition on various grounds as stated in the petition.

5. We have heard Mr. M.M. Sudame, learned Senior Advocate for the petitioner, who states that the action of the respondents is entirely misconceived and *de hors* the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (in short, M.E.P.S. Act). By taking us through the impugned communication issued by the respondent No.5, the learned Senior Advocate submits that the reference to Rule 33(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (in short, 'M.E.P.S. Rules') is without any application of mind since the said said Rule speaks about resignation and not voluntary retirement as is in the present case. He further submits that even though he was suspended due to registration of a criminal case, the said criminal case admittedly is with respect to another Public Trust of which the petitioner was the President and has no concern with his service as a Teacher in the respondent No.5 College. He, therefore, submits that he stood voluntarily retired after the expiry of 90 days' period which is

contemplated under the provisions of the Maharashtra Civil Services (Pension) Rules, 1982.

6. Per contra, learned Assistant Government Pleader as also counsel for respondent Nos.4 and 5 after taking us through the reply filed by it to the present petition states that a meaningful reading of the provision would indicate that criminal case is pending before a competent Court of Law and, therefore, the Authority was right in rejecting the application of the petitioner for voluntary retirement.

7. Learned Senior Advocate for the petitioner places reliance on a judgment of this Court report in **Nilkanth Akarte Vs. State of Maharashtra, 2006(5) Mh.L.J. 132 and Lions Education Society Vs. Presiding Officer, Amravati and others, 2018(1) ALL MR 300** as also judgment in **Writ Petition No.4408/2023**.

8. We have appreciated the contentions canvassed by the learned counsel for the parties. In the present case, admittedly an application seeking voluntary retirement was lastly made on 15.12.2024 a reference of which is also found in the impugned communication dated 3.3.2025. As can be seen from the record that the said application was processed by the Management and sent to the competent Authority i.e. respondent Nos.2 and 3. Thus, the petitioner was deemed to be retired after the 90 days as

contemplated under the relevant Pension Rules. Even though the impugned communication is dated 3.3.2025, same is posted on 15.4.2025 which is received by the petitioner on 19.4.2025. It is thus clear that in the interregnum period, the period of 90 days was expired and the petitioner stood retired w.e.f. 17.3.2025 i.e. when the period of 90 days came to an end. Only because the impugned communication bears a date of 3.3.2025 i.e. prior to expiry of period of 90 days, that would not help the cause of the respondent. It seems that after issuing the said communication and putting a date of 3.3.2025, the said matter was communicated to the petitioner on 19.4.2025. Thus, the respondents herein cannot take benefit of their own wrong. It is pertinent to note that all these averments regarding the date of communication being 3.3.2025 and it being put in post for delivery on 15.4.2025 and it being delivered on 19.4.2025 can be seen from the track record filed by the petitioner along with his affidavit and more particularly since it has not been contradicted by the respondents. It is worthwhile to mention that as rightly relied upon by learned Senior Advocate for the petitioner the Division Bench of this Court has considered the controversy in the matter of **Nilkanth Akarte Vs. State of Maharashtra, 2006(5) Mh.L.J. 132**. After considering the deeming Section in Rule 66 of Maharashtra Civil Service (Pension) Rules,

1982 it held that as there is no action of refusal/acceptance of application for voluntary retirement, the employee automatically stands retired on the expiry of the 90th day. Same view has been reiterated in **Lions Education Society Vs. Presiding Officer, Amravati and others, 2018(1) ALL MR 300** and judgment in *Writ Petition No.4408/2023*.

9. It is thus clear that on the expiry of 90 days, the petitioner stood retired. Therefore, the challenge in the petition is liable to be sustained. Therefore, we pass the following order :

ORDER

- (i) The Writ Petition is allowed.
- (ii) It is declared that the petitioner stood voluntarily retired from service w.e.f. 17.3.2025.
- (iii) The impugned communication dated 3.3.2025 issued by the respondent No.4 Society is quashed and set aside.
- (iv) The impugned communication dated 12.12.2024 and corrigendum dated 3.3.2025 issued by the respondent No.3 is also quashed and set aside.
- (v) Rule is made absolute in above terms.

(NANDESH S. DESHPANDE, J.)

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