
(2025) 12 BOM CK 1693

In the Bombay High Court, Kolhapur Bench

Case No : Writ Petition No. 12497 Of 2025

Shradhdha Ashok Parab

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 12-12-2025

Acts Referred:

Maharashtra Employees of Private Schools Regulation Act, 1977 — Section 5(1)

Citation : (2025) 12 BOM CK 1693

Hon'ble Judges : M.S. Karnik, J;Ajit B. Kadethankar, J

Bench : Division Bench

Advocate : Utkarsh Desai, Prashant S. Bhavake, T. J. Kapre

Final Decision : Allowed

Judgement

Ajit B. Kadethankar, J

1. Subject Matter: Petitioner No.1 is duly appointed by Petitioner No.2- Educational Institution as Junior Clerk (Shikshan Sevak) at Petitioner No.3- School run and administered by Petitioner No.2.

1.1 Services of the Petitioner No.1 are also duly approved by the Competent Authority i.e. Respondent- Education Oicer (Secondary) Zilla Parishad, Sindhudurg [hereinafter referred as "Education Oicer"].

1.2 Grievance of the Petitioners in the Writ Petition is that despite having granted approval to Petitioner No.1's appointment, the Education Oicer has foisted a liability on the School Management to pay the honorarium/salary to Petitioner No.1 for the period from the date of appointment to the date of approval.

1.3 As such, the Petitioners are aggrieved by the condition imposed by Education Oicer while granting approval thereby not granting salary from the grant-in-aid w.e.f. the date of appointment.

1.4 Considering the nature of prayers made in the Writ Petition, we have inally heard the parties by consent.

1.5 Rule. Rule made returnable forthwith.

2. Brief Facts of the Case:

2.1 Undisputedly, the Petitioner No.3 is a fully aided school run and administered by the Petitioner No.2.

2.2 Consequent to promotion of Mr. T. G. Haramlikar, the then working Junior Clerk, a vacancy for the post of Junior Clerk was created in the Petitioner No.3-School.

2.3 In view of Section 5(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, the Petitioner No.2-Management approached the office of Education Officer to ascertain if any suitable surplus Junior Clerk was available for absorption on the said vacant post.

2.4 Petitioners contend that even after filing an application dated 2nd November 2015 seeking permission to issue an advertisement to fill up the subject matter post, the Education Officer neither released any information about availability of any surplus candidate nor accorded any permission for issuing the advertisement.

2.5 As such, the School Management was constrained to publish an advertisement on 6th December 2015 in Daily Newspaper "Prahar".

2.6 Petitioner No.1, who was desirous to get an employment applied pursuant to the advertisement dated 6th December 2015. After completion of all formalities, the School Management appointed Petitioner No.1 as Junior Clerk (Shikshan Sevak) at Petitioner No.3-School w.e.f. 21st December 2015 under the Shikshan Sevak scheme.

2.7 It is not disputed that Petitioner No.1 has been working on the subject matter post continuously and has also been made permanent.

2.8 It is a matter of fact that School Management moved a proposal to the Education Officer seeking approval to the Petitioner No.1's appointment. However, the Education Officer turned down the proposal. This constrained the Petitioner No.1 to file Writ Petition No.5055 of 2023 in this Court.

2.9 Upon hearing parties, this Court vide order dated 7th October 2024 disposed of the said Writ Petition directing the Education Officer to decide the approval proposal as per procedure.

2.10 Accordingly, a fresh proposal was filed to the Education Officer for approval of Petitioner No.1's appointment.

2.11 On 1st January 2025, the Education Officer granted approval to the Petitioner No.1's service on the subject matter post for the probationary period of three years w.e.f. 21st December 2015.

2.12 Respondent No.4-the Deputy Director of Education, Kolhapur by his order dated 25th March 2025 allotted Shalarth Id to the Petitioner. However, the

Education Officer issued another order dated 25th April 2025, thereby granting approval to Petitioner No.1's services w.e.f. 21st December 2018.

3. The Petitioner No.1 has two grievances in the Writ Petition, which are as follows :

(i) In the approval dated 1st January 2025, due to condition No.7, the Education Officer made the School Management responsible to pay the honorarium to Petitioner No.1 for the period 21st December 2015 to 20th December 2018.

(ii) In the approval dated 25th April, 2025, due to condition No.8, the Education Officer made the School Management liable for payment of honorarium/ salary for the period 21st December 2020 to 7th October 2024.

4. Arguments by Counsel for the Petitioners:

4.1 Mr. Utkarsh Desai, learned Counsel for the Petitioners vehemently submits that once the approval is granted by the Competent Authority from the date of appointment on the subject matter post, the Education Officer is not justified in imposing liability of honorarium/ salary on the Management for any period of time from date of appointment till 7th October, 2024.

4.2 He would further submit that reasons recorded by the Education Officer at clause (7) in approval order dated 1st January 2025 and at clause (8) of approval order dated 25th April 2025, are absolutely unjustified and absurd.

4.3 As such, learned Counsel for the Petitioners would submit to direct the Education Officer and the Deputy Director of Education to release the honorarium and salary of Petitioner No.1 for the respective period from the grant-in-aid of Petitioner No.3-School.

5. Argument of Learned AGP:

5.1 Ms. T. J. Kapre, learned AGP would, however, support the conditions imposed by Education Officer. She would further submit that those conditions are imposed by Education Officer taking into consideration the prevailing conditions at the relevant time and as such, Management is under obligation to satisfy those conditions.

6. Discussion and Consideration:

6.1 We have heard learned Counsel for the Petitioner as well as learned AGP for the Respondent-State.

6.2 It is absolutely no more in dispute that Petitioner No.1 was appointed by following proper procedure.

6.3 It is only upon finding that Petitioner No.1 is appointed through proper channel by completing each formality, and her recruitment as also the appointment order was perfectly within the four corners of law, the Education Officer granted approval.

6.4 A fact which can not be overlooked is that Petitioner No.1 was appointed on the subject matter post which has fallen vacant due to promotion of earlier Junior Clerk – Mr. T. G. Haramlakar.

6.5 As such, it was not a creation of any new post. Therefore, the status of subject matter post was an approved post as per the then prevailing staing pattern.

7. We have no hesitation to accept the argument of Mr. Desai, learned Counsel for the Petitioners that in the given facts and circumstances, where the subject matter post fell vacant due to promotion of earlier junior clerk, new staing pattern or the imposition of any condition/ ban would not be applicable to the subject matter post.

8. Furthermore, we do not comprehend with the logic applied by Education Oicer thereby bifurcating the responsibility of honorarium / salary for the given periods and for the given reasons. Once the approval is granted from the date of appointment, the Education Oicer and the Deputy Director of Education are under obligation to pay the honorarium/ salary to the Petitioner No.1 from the grant-in-aid of Petitioner No.3- School.

9. Hence, for the reasons recorded above, we have no hesitation to allow this Writ Petition. In the light of above, we pass following order :

-: ORDER :-

(i) Writ Petition stands allowed.

(ii) Condition No.7 in approval dated 1st January 2025 and Condition No.8 in approval dated 25th April 2025 are hereby struck down.

(iii) Respondent No.5-the Education Oicer (Secondary), Zilla Parishad, Sindhudurg and the Respondent No.4-the Deputy Director of Education, Kolhapur shall release the honorarium and salary respectively of the Petitioner No.1 from the date of her appointment.

(iv) This exercise shall be carried out within a period of eight weeks from the date of receipt of copy of this order.

(v) Rule is made absolute in above terms.

(vi) Writ Petition stands disposed of.