

(2025) 12 BOM CK 1694

In the Bombay High Court, Kolhapur Bench

Case No : Writ Petition No. 12448 Of 2025

Vikas Pandit Patil

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 1694

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

Bench : Division Bench

Advocate : Chetan G. Patil, Prathamesh P. Magadum, Gajraj A Mali, Bhushan S. Jahdavi, A. P. Vanarase

Final Decision : Allowed

Judgement

Ajit B. Kadethankar, J

1. Subject Matter: Petitioner is duly appointed by Respondent No.4-Educational Institution as Shikshan Sevak at Respondent No.5-School run and administered by Respondent No. 4.

1.1 Services of Petitioner are also duly approved by the Competent Authority i.e. Respondent-Education Officer (Secondary) Zilla Parishad, Sangli [hereinafter referred to as "Education Officer"].

1.2 Grievance of the Petitioner in the Writ Petition is that despite having granted approval to the Petitioner's appointment, the Education Officer has foisted a liability on the School Management to pay the honorarium/salary to Petitioner for the period from the date of appointment to the date of approval.

1.3 As such, the Petitioner is aggrieved by the condition imposed by Education Officer 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 Writ Petition, we have finally heard

the parties by consent.

1.5 Rule. Rule made returnable forthwith.

2. Brief Facts of the Case:

2.1 For the sake of convenience, parties are referred to by their respective status. Undisputedly, the Respondent No. 5 is a fully aided school run and administered by the Respondent No.4.

2.2 Consequent to the retirement of one Ms. Kamal Patil, then working as Assistant Teacher, a vacancy for the post of Shikshan Sevak arose in the Respondent No.5-School.

2.3 In view of Section 5(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, the school management approached the office of Education Officer to ascertain if any suitable surplus Assistant Teacher was available for absorption on the said vacant post.

2.4 Petitioner contends that even after filing an application and waiting for 8 years for 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 in local daily newspaper.

2.6 Petitioner, who was desirous to get employment, applied pursuant to the said advertisement. After completion of all formalities,

the School Management vide appointment order dated 22nd June 2016 appointed the Petitioner as Shikshan Sevak at Respondent No.5-School w.e.f. 1st July 2016.

2.7 It is not disputed that Petitioner 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's appointment.

2.9 On 4th October 2024, the Education Officer granted approval to the Petitioner's services on subject matter post for the probationary period of three years w.e.f. 1st July 2016 on honorarium basis.

2.10 The Education Officer later issued another approval order dated 28th January 2025 thereby approving the Petitioner's services as Assistant Teacher on regular pay scale w.e.f. 1st July 2019. It is pertinent to note that in the said approval order dated 28th January 2025, it is recorded that the Petitioner's name is incorporated in Shalarch system vide order dated 12th December 2024 passed by the Deputy Director of Education, Kolhapur.

3. The Petitioner is aggrieved by the imposition of condition No.5 in the approval order dated 4th October 2024 whereby Education Oicer made the School Management responsible to pay honorarium to the Petitioner from the date of his appointment till the date of approval.

4. Arguments by Counsel for Petitioner:

4.1 Mr. Chetan Patil, learned Counsel for the Petitioner vehemently submitted that once approval is granted by Competent Authority from the date of appointment on the subject matter post, the Education Oicer is not justified in imposing liability of honorarium/ salary on the Management for any period from date of appointment. He submitted that in any case, payment has to be made by Zilla Parishad authorities from the date of appointment and not from the date of approval.

4.2 He would further submit that reasons recorded by the Education Oicer at clause (5) in approval order dated 4th October 2024 is absolutely unjustified and absurd. He submits that not a single reason has been assigned by the Education Oicer for putting such condition.

4.3 As such, learned Counsel for the Petitioner would submit to direct the Education Oicer and the Deputy Director of Education to release the honorarium and salary of Petitioner from the date of appointment itself from the grant-in-aid of Respondent No.5-School.

5. Argument of Learned AGP:

5.1 Mr. A. P. Vanarase, learned AGP would, however, support the condition imposed by Education Oicer. He would further submit that the said condition is imposed by the Education Oicer taking into consideration the prevailing conditions at the relevant time and as such, Management is under obligation to satisfy the said condition.

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 was appointed by following proper procedure.

6.3 It is only upon finding that Petitioner is appointed through proper channel by completing each formality, and his recruitment as also the appointment order was perfectly within the four corners of law, the Education Oicer granted approval to his services.

6.4 A fact which can not be overlooked is that Petitioner was appointed on the subject matter post which had fallen vacant due to retirement of one Ms. Kamal Patil who was working as Assistant Teacher.

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. Chetan Patil, learned Counsel for the Petitioner that in the given facts and circumstances, where the subject matter post fell vacant due to retirement of earlier Assistant Teacher, 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 the logic applied by Education Oicer thereby bifurcating the responsibility of honorarium / salary for the given period. Once 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 from the grant-in-aid of Respondent-School from the date of appointment itself.

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.5 in the approval dated 4th October 2025 is hereby struck down.

(iii) The Respondent-Education Oicer (Secondary), Zilla Parishad, Sangli and the Respondent-Deputy Director of Education, Kolhapur shall release the honorarium and salary respectively, of the Petitioner from the date of his appointment itself.

(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.