



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

WRIT PETITION NO. 2154 OF 2021

- 1) Adarsha Shikshan Sanstha, Sawari,
Post- Jawaharnagar, Tah. Dist.-Bhandara,
through its Secretary.
- 2) Gram Vikas Highschool, Kondhi/
Jawaharnagar, Tah. Dist- Bhandara,
through its Headmaster.
- 3) Shri. Pratap Dudhram Ramteke,
Aged- 52 Years, Occupation-Service.
R/O. Awarmara, Post- Navegaon,
Tah.- Kuhi, Dist.- Nagpur.

..... PETITIONERS

-VERSUS-

- 1) State of Maharashtra,
through its Secretary,
Department of Education,
Mantralaya, Mumbai-32.
- 2) Director of Education,
Education Directorate, Pune-01.
- 3) Deputy Director of Education,
Nagpur Division, Nagpur.
- 4) The Education Officer (Sec.),
Zilla Parishad, Bhandara.

.... RESPONDENTS

Shri P. N. Shende, Advocate for the petitioner
Shri N. R. Patil, Assistant Government Pleader for respondents.

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



DATE ON RESERVING THE JUDGMENT : 04.03.2026

DATE ON PRONOUNCING THE JUDGMENT : 01.04.2026

JUDGMENT : (Per – Smt. M. S. JAWALKAR, J.)

1. **Rule.** Rule made returnable forthwith. Heard finally with consent of the learned Counsel appearing for the parties.
2. The Petitioners by this petition are challenging the action of Respondent No. 2 - Director of Education, Pune and Respondent No. 4 -Education Officer (Secondary), Zilla Parishad, Bhandara, in not granting approval to Petitioner No. 3 as a Librarian (Full-time).
3. It is submitted by the Petitioner No. 3 that he is duly qualified 12th Science and possesses a Certificate in Library Science, belongs to the Scheduled Caste category, and was appointed as a Librarian (Part-time) on 26.06.1997 after a proper selection process. Petitioner No. 1 runs Petitioner No. 2 School, which has been receiving 100% Grant-in-aid since the Academic Year 1996-97.
4. Despite this, the proposal for approval of Petitioner No. 3 as Librarian (Full-time) was not decided by the authorities.



Petitioner No.3 has served in the Petitioner No. 2 School for more than 25 years with an unblemished record and has attained permanency as per the rules of The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short the “MEPS Act”), yet his appointment remains unapproved, forcing the Institution to pay his salary from its own funds.

5. In terms of the Government Resolution dated 03.08.2006, once the school strength exceeded 1000 students in the Academic Year 2007-08, it became entitled to a Full-Time Librarian post. Accordingly, Petitioner No. 3 was appointed as a Librarian (Full-time) on 23.06.2007, and the proposal was forwarded to the State Government on 24.04.2009. However, the said proposal has remained pending since 2009. Repeated representations dated 20.04.2019, 03.07.2020, 30.12.2020, and 11.01.2021 yielded no response. Ultimately, by order dated 27.06.2022, the proposal was rejected on the ground that the initial Librarian (Part-time) appointment of the Petitioner No.3 was not approved.

6. The Petitioners submit that such rejection is arbitrary and unfair. After keeping the matter pending for years, the



Respondents cannot deny approval on technical grounds and take advantage of their own inaction.

7. As against this, Respondent No. 1 submits that the rejection order dated 27.06.2022 is legal and justified, as the very basis of claim of the Petitioner is flawed. The Petitioner No. 3 was appointed as a Librarian (Part-time) on 26.06.1995, without any sanctioned post and without prior permission of the Education Department, even though, the school became eligible for 75% grant-in-aid from 01.06.1995. The record, including the order dated 09.04.1996, communication dated 07.06.2008, and staff justifications from 1995-96 to 2006-07, clearly shows that no post of Librarian (Part-time) was ever sanctioned and the appointment remained unapproved throughout.

8. It is further submitted that the subsequent appointment as Librarian (Full-time) on 23.06.2007 does not cure this defect. Though certain recommendations were made by subordinate authorities through communications dated 24.04.2009, 10.04.2019, and 20.04.2019, the same cannot confer any right, especially when the initial appointment itself was not approved. Even where staff justification for the years of 2018-19 refers to



a Librarian (Full-time) post, it is subject to Government sanction, which was never granted. In these circumstances, the Petitioners cannot claim approval or salary from the State.

9. Respondent No. 2 submits that the present petition is premature, as the proposal regarding sanction and approval of the post held by Petitioner No. 3 is still under consideration of the State Government. It is submitted that, pursuant to the order dated 29.03.2022, Respondent No. 2 has actively processed the matter and sought necessary guidance from the Government vide communications dated 15.02.2022 and 01.04.2022. It is further submitted that the proposal forwarded by the Education Officer on 10.04.2019, along with subsequent reminders, has been duly considered and placed before the competent authority, and therefore no delay can be attributed to Respondent No. 2.

10. It is further submitted that the claim of the Petitioners is otherwise not sustainable, as the initial appointment of Petitioner No. 3 as a Librarian (Part-time) was never approved and was not against a sanctioned post. In such circumstances, the question of granting approval to the upgraded Full-Time post does not arise as a matter of right. Though staffing patterns in later



years indicate availability of a Librarian (Full-time) post, the same is subject to Government sanction and policy decisions, and the proposal in that regard is still pending for consideration.

11. Respondent No. 4 submits that, as per the record, no post of Part-time or Full-time Librarian was sanctioned in the Petitioner No. 2 school from 2007-08 to 2014-15, and no staff justification for non-teaching staff was issued for 2015-16 to 2017-18. Though a Librarian (Full-time) post appears in 2018-19, the same is subject to Government sanction under Resolutions dated 28.01.2019 and 07.03.2019, which are themselves under challenge and subject to interim order dated 14.02.2022 in Writ Petition No.5058/2021, before the Principal Seat of this Court. It is further submitted that under the MEPS Act and Rules, Respondent No. 4 only disburses grant-in-aid for sanctioned and approved posts, and since the post held by Petitioner No. 3 was never sanctioned or approved, no liability arises; accordingly, the proposal was rejected vide order dated 27.06.2022, and the petition deserves to be dismissed.

12. Heard learned Counsel for both parties at length and perused the documents filed on record.



13. It is an admitted fact that Petitioner No.3 was appointed as Librarian (Part-time) on 26.06.1997. At the time of initial appointment, the School was not receiving grant-in-aid facility therefore, appointment was not approved by the Education Officer. It is subsequently admitted to 100% grand-in-aid facility from the year 1996-97, as the strength of student in the year 1995-96 was more than 500. Therefore, part time vacancy of librarian was created in the petitioner School. Accordingly, selection process started by following due procedure i.e. publication of advertisement and interview as per Section 5 and 9 of the MEPS Act. In view thereof, the Petitioner No.3 also made an application for the aforesaid post of Librarian (Part-time). He was selected after successful in interview and came to be appointed on probation for the period of two years.

14. After the School started receiving 100% grand-in-aid, the proposal of the Petitioner No.3 was forwarded by Petitioner No.2 – School to the Respondent No.4 for grant of approval, however, no decision was taken by the Respondent No.4. As there was no decision on the proposal taken by Respondent No.4, the



Petitioner Nos.1 and 2 are paying the regular salary to the Petitioner No.3.

15. There is a Government Resolution (GR) issued on 03.08.2006 and decided that if the strength of student in any school crosses 1000, then the said school would be entitled to get sanction post of Librarian (Full-time). This resolution is passed in pursuance to Report of Chiplunkar Committee. By this GR the private schools wherein there are more than 1000 students and candidate is working as Part-time Librarian on sanction post of Librarian (Part-time) for more than 5 years, all these Part-time Librarians are eligible for upgradation as Librarian (Full-time), subject to condition mentioned in the said GR. In view of this condition, it is necessary that the appointment on Part-time Librarian ought to be as per provisions of MEPS Act and it has to be approved by the Competent Authority to its appointment on Librarian (Part-time). It is also made clear by the GR that after upgradation in Librarian (Full-time), it will be treated as new appointment and the candidate will not get benefit of his earlier service as Librarian (Part-time).



16. It is grievance of the Petitioners that if Staff Justification of 2007-08 is seen, there is one post of Librarian (Full-time) sanctioned for the year 2007-08. For the year 2008-09, one post of Librarian (Part-time) was sanctioned. For the year 2018-19, no post is shown as part-time or full-time Librarian sanctioned as on 01.10.2018. For the year 2018-19, for the class 8 to 12 there is one past of Librarian (Part-time) appears to be sanction on 18th November, 2019. In the year 2018-19, class 8 to 12 one Librarian (Full-time) post shown as sanctioned. It was made clear by the Staff Justification that this post will not be considered as the sanctioned, till they get sanctioned by the Government.

17. It appears that the Deputy Director of Education vide its Communication dated 24.04.2009 to the Upper Secretary, School Education and Sport Department, Mantralaya, Mumbai informed that Gram Vikas High School, Kondhi, District Bhandara is having strength of more than 1000 students from 2007-08 and in view of the GR dated 25.11.2005, the said School is entitled for post of one Librarian (Full-Time) from 2007-08. The Education Officer gave his opinion that the Petitioner No.3 - Pratap Ramteke,



who is working as Librarian (Part-time) since 1998, can be upgraded to the post of Librarian (Full-time), after granting approval to his services of Librarian (Part-time). The Deputy Director of Education forwarded the said proposal to the Upper Secretary, School Education and Sport Department, Mumbai (Annexure-V page 23). The School forwarded a fresh proposal on 03.07.2020 (Annexure-VI) to the Education Officer (Secondary), Zilla Parishad, Bhandara for grant of approval from the date when the school came on 100% grant-in-aid basis to the post of Librarian (Part-time), which is occupied by Petitioner No.3 – Pratap Ramteke since 1997. There are repeated correspondence to the Education Officer for grant of approval to the appointment of Petitioner No.3.

18. It appears that on 20.04.2019, the Deputy Director of Education, Nagpur forwarded the said proposal for grant of approval to the Director of Education, Pune (Annexure-VII). The Director of Education, Pune vide its communication dated 27.06.2022 informed that there was no sanction to the appointment of Petitioner No.3 by the Education Officer and, therefore, he cannot be upgraded as a Librarian (Full-time). The order is under challenge in this Petition as well as the Petitioner



No.3 seeking direction to the Education Officer to grant approval to his appointment as Librarian (Part-time) and thereafter for upgraded as Librarian (Full-time).

19. The learned Assistant Government Pleader vehemently submitted that the said post was not sanctioned and therefore there cannot be any upgradation in view of GR dated 03.08.2006. In our considered opinion, the order passed by the Director of Education is patently erroneous, in fact, the Education Officer himself forwarded the proposal to the Deputy Director of Education for grant of approval to the post of Librarian (Full-time) to Pratap Ramteke. The letter dated 30.12.2020 issued to the Headmaster, make it clear that in response to the proposal in respect of Petitioner No.3, for grant of approval as a Librarian (Part-time) since 01.07.1997 was forwarded to the Director of Education, Pune. The Deputy Director of Education also forwarded a letter to the Director of Education, Pune stating therein that the proposal in respect of Petitioner No.3 – Pratap Ramteke showing factual report by the Education Officer, Bhandara.

20. It is not the case that there was no post approved of Librarian (Part-time) nor it is the case of respondent that post



filled in without following due procedure. In fact, the approval was neither rejected nor granted to the services of Petitioner No.3 for the Librarian (Part-time). This same needs to be approved. Admittedly, now strength of the student is more than 1000 and accordingly school is eligible for one post of Librarian (Full-time). The reason given by the Upper Secretary is patently erroneous without application of mind. The case of the Petitioners is that, the Petitioner No.3 was working since 1997 as a Librarian (Part-time) and, therefore, approval to his appointment as well as Librarian (Part-time) is required to be issued first thereafter, his post can be upgraded as a Librarian (Full-time). This aspect is not at all considered by the Upper Secretary, School Education and Sports Department, Mumbai. Accordingly, the impugned communication dated 27.06.2022 is liable to be quashed and set aside. As such, we proceed to pass the following order :

- (i) The Writ Petition is allowed.
- (ii) The impugned order dated 27.06.2022, passed by Respondent No.1 – Secretary, School Education and Sports Department, Mumbai is hereby quashed and set aside.
- (iii) The Respondent No.4 – Education Officer (Secondary), Zilla Parishad, Bhandara is hereby



directed to grant approval to the appointment of Petitioner No.3 as a Librarian (Part-time) from the date, when the School started receiving 100% grant-in-aid and then Librarian (Full-time) w.e.f. 01.07.2007.

(iv) The Respondent No.1 is hereby directed to grant sanction to the post occupied by Petitioner No.3 on Librarian (Part-time) and then Librarian (Full-time) within a period of two months.

21. Rule is made absolute in the above terms. No order as to costs. Pending application(s), if any, stand(s) disposed of.

(NANDESH S. DESHPANDE, J.)

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