

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 331 OF 2023

1. Shrikant Govindrao Sukte

Age: 35 yrs, Occ: Teacher,
R/o. B-5, 102, Sai Garden Residency,
Charoti, Tq. Dahanu, Dist. Palghar.

2. Madhukar Tukaram Chavan

Age: 40 yrs Occ: Teacher,
R/o. Suresh Gagonde Chawal, Room No.1
Kasa, Dongriwada, Tq. Dahanu,
Dist. Palghar.

3. Jaywant Tukaram Gandhkwad,

Age: 40 yrs Occ: Teacher,
R/o. Dahanu Kil, Tq. Dahanu,
Dist. Palghar.

...Petitioners

Versus

1. Panchayat Samiti Dahanu,

Through Block Education Officer,
Agar Road, Parnaka, Tq. Dahanu
Dist. Palghar – 401601
beodahanu@gmail.com
02528-222387

2. Zilla Parishad, Palghar,

Through its Chief Executive Officer,
New Administrative Building,
Ground floor, Room No.11, Navnagar,
Kolgaon, Boisar Road,
Tal. & Dist. Palghar
edu.palghar@gmail.com
Phone 02525-25515

3. The Commissioner

Education, Maharashtra State,
Central Building,
Dr. Annie Besant Road, Pune – 411001
educommobudget@gmail.com
020-26120141

4. State of the Maharashtra,

Through its Principal Secretary,
Department of School Education and Sport,
Mantralaya, Mumbai
educom-mah@mah.gov.in

...Respondents

Mr. Vinod P. Sangvikar a/w Ms. Sanika R. Said, Mr. Abhishek Solunke i/b Ms. Shakuntala V. Sangvikar for Petitioner.

Mr. Ashok Kotangale a/w Mr. Suresh Kabra for Respondent Nos.1 & 2.

Ms. Nisha Mehra, AGP for Respondent Nos.3 & 4 – State.

CORAM	:	G. S. KULKARNI & DR. NEELA GOKHALE, JJ.
RESERVED ON	:	17 th AUGUST 2026
PRONOUNCED ON :		20 th AUGUST 2026

JUDGMENT: (Per DR. NEELA GOKHALE, J.)

1. By this petition, the Petitioners seek an appropriate writ directing the Respondent Nos. 1 to 4 to forthwith pay their salaries from July 2022 till the filing of the present petition with all consequential benefits of interest, etc. The Petitioners seek to quash and set aside order dated 25th July 2022 passed by the Respondent No.1, directing the Headmaster/Teachers to stop the Petitioners' salaries.

2. The Petitioners are stated to be working as primary teachers in a school run by the Respondent No.1. The Respondent Nos. 2 and 3 are the various authorities of the Respondent No.4-State of Maharashtra.

3. By letter dated 21st July 2022 issued by the Chief Executive Officer of the Respondent No.2 to the Education Officer of Zilla Parishad ("ZP"), it was directed that the salaries of teachers, who have not registered or opened an account in

National Pension Scheme (“NPS”), shall be withheld. Pursuant to this direction, the Respondent No.1 issued a letter dated 25th July 2022, directing the Headmaster/Teachers to withhold the salary of such teachers.

4. The Petitioners made representations before the Respondent Nos. 1 and 2 requesting that the NPS may not be made mandatory and for this reason, their salaries should not be stopped. Ignoring the representations made by the Petitioners, their salaries were withheld from July 2022. Further, the Chief Finance Officer of the ZP directed action against those who did not consent for the NPS. Ultimately, the Petitioners’ salaries were stopped without any notice as they did not consent to contribute towards NPS.

5. Heard Mr. Vinod Sangvikar, learned counsel for the Petitioners, Mr. Ashok Kotangale, learned counsel for the Respondent Nos. 1 and 2 and Ms. Nisha Mehra, learned AGP for the Respondent Nos. 3 and 4 - State.

6. We have perused the Government Order dated 19th September 2019, applying NPS for all the teaching and non-teaching staff of government schools and government aided private schools. The said Order nowhere provides for compulsory and mandatory application of NPS to teachers of such schools. The same is clearly at the option of the teachers. Further, there is no provisions in the Government Order providing for withholding the salaries of teachers or staff who have refused to the application of the NPS.

7. In fact, by letter dated 22nd December 2021, the Commissioner of Education of the State Government had conveyed to all the concerned authorities that no teacher or staff is to be forced to close the General Provident Fund (“GPF”)

accounts and open an NPS account. It was further directed that the salaries of such teachers shall not be withheld or deducted. Despite the said communication, the Regional Education Officer proceeded to direct that the salaries of teachers refusing to switch to NPS shall be withheld. Accordingly, the Petitioners' salaries were withheld from July 2022 till the date on which the present writ petition was filed.

8. Mr. Sangvikar fairly conceded that after receiving notice of the present petition, the authorities have disbursed the Petitioners' salaries, however, 10% of the salaries has been deducted and credited in their NPS accounts, which the Petitioners were coerced into opening.

9. At the outset, the entire action of the Respondents is deprecated. Article 21 of the Constitution of India guarantees the right to livelihood as an integral part of right to life, and as such, it cannot be subjected to individual fancies of the persons in authority. The management having availed of the Petitioners' services cannot be permitted to decline salaries to them. This is nothing but exploitation amounting to depriving a person of his/her right to livelihood. Hence, the act of the management in withholding the salaries of the Petitioners for the period in which they discharged their duty is unacceptable. What is also striking the most is that the authorities have even ignored and disregarded the instructions issued by the Commissioner of Education, directing that salaries of teachers refusing to open an NPS account shall not be withheld. This is nothing but an arbitrary exercise of power by the authorities.

10. Considering that a part of the salaries have been disbursed to the Petitioners post filing of the present petition, we direct the Respondents concerned to disburse

the outstanding salaries to the Petitioners within a period of ten days from the date of uploading of the present order.

11. Undeniably, the Petitioners must have suffered considerable hardship on account of not having received their monthly salaries from July 2022, till the filing of the present writ petition, only because of the high handedness of the Respondents. For withholding the salaries of the Petitioners for such long years, while continuing to accept their services, we direct the Respondents concerned to pay 12% interest to the Petitioners on the amounts withheld from July 2022, till the date on which the payments were made. The authorities are at liberty to recover the amount of the interest from the salaries of the concerned officer/s who directed and permitted the withholding of the Petitioners' salaries.

12. In view of the aforesaid, the writ petition is allowed. No costs.

(DR. NEELA GOKHALE, J)

(G. S. KULKARNI, J.)