

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**

**ORIGINAL APPLICATION NO.1051/2023 (D.B.)**

1. **Dr. Ramkrishna Vishramji Yenkar,** )  
Aged 58 years, Occ. Service, )  
R/o Govt. Polytechnic College, )  
Sadar, Nagpur. )
2. **Dr. Mir Ashfaque Ali,** )  
Aged 58 years, Occ. Service, )  
R/o Govt. Polytechnic College, )  
Arvi, District Wardha. )
3. **Sandeep Prayagrao Lambhade,** )  
Aged 55 years, Occ. Service, )  
R/o Govt. Polytechnic College, )  
Sakoli, District Bhandara. )

...

**APPLICANTS**

**// V E R S U S //**

- 1] **State of Maharashtra,** )  
Through its Secretary, )  
Higher and Technical Education Dept., )  
Mantralaya, Mumbai-32. )
- 2] **Director,** )  
Technical Education, )  
3, Mahanagar Palika Marg, )  
Box No. 1967, Mumbai-01. )
- 3] **Maharashtra Public Service Commission,**)  
Through its Secretary, )  
Having office at Trishul Goldfield, )

Plot No. 34, Infront of Sarowar Vihar, )  
CBD Belapur, New Mumbai-614. )

... **RESPONDENTS**

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**Shri R.V & N.R. Shiralkar, A.M. Motlag, Ld. Counsel for  
the Applicants.**

**Shri S.A. Deo, ld. C.P.O. for the Respondents.**  
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**Coram :- Hon'ble Shri Justice Vinay Joshi,  
Member (J) and  
Hon'ble Shri Nitin Gadre,  
Member (A).**

**Dated :- 09/04/2025.**  
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**J U D G M E N T**

**Judgment is reserved on 01/04/2025.**

**Judgment is pronounced on 09/04/2025.**

**Per : Member (A)**  
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Heard finally with the consent of both the learned  
counsel.

2. The Applicants have filed an application dated  
18/09/2023 to direct the respondents for allowing promotional  
channel for filling the post of 'Principal' in Government  
Polytechnic Colleges. During the period from 1996 to 1998, the  
applicants were appointed as Head of the Departments. The

applicants claim that some of them are already working as in-charge Principal in some Government Polytechnic Colleges. The State Government issued the Government Resolution dated 11/09/2019 regarding recommendations of the 7<sup>th</sup> pay commission. As per this resolution, the Principal post can be filled by nominations and promotions both. The applicants have submitted that the Respondent No.1 has issued an Advertisement No. 068/2023 on 13/09/2023 intending to fill the 17 available vacant posts of Principal by direct recruitment exceeding the quota of direct recruits. As per the applicants, the quota should be 50% for promotions and 50% for direct recruitments. In view of this, the applicants have requested for following reliefs:-

*“7A. Hold and declare that action of the respondent no. 1 in not filling up the posts of principal in Govt. Polytechnic Colleges, by way of promotion and resorting to direct recruitment by issuing advertisement dated 13.9.2023. be declared as illegal and arbitrary; consequently;*

*B. Quash and set aside the advertisement dated 13.9.2023 issued by the respondent no. 3.*

*C. Direct the respondent no. 1 to consider the cases of the applicants for promotion on the post of Principal of Govt. Polytechnic Colleges immediately by constituting departmental promotion committees meeting and if found suitable direct the respondent no.*

*1 to promote the applicants on the posts of principal in Govt. Polytechnic Colleges.*

*D. During pendency of this application, by ad-interim exparte relief restrain the respondent no. 3 from going ahead with Advertisement dated 13.9.2023.*

*E. Allow the application with costs.*

*F. Grant any other relief.”*

3. The Respondent Nos.1 and 2 have filed their reply dated 06/11/2023. The relevant portion of the reply is as follows:-

*“6. It is submitted that, the Applicants have placed reliance on the recruitment rules of 1997 to be precise of 05.11.1997 for the purpose of seeking relief from this Hon'ble Tribunal. However as it is already stated that, the recruitment rules of 1997 does not hold the field as on date, as the new recruitment rules has been framed and issued by the Respondent by notification dated 10.09.2012.*

*8. It is further submitted that, AICTE specifies the norms and standards for technical education, pay scale and service condition for the teaching faculty in technical education in the country.*

*11. It would be pertinent to note here that, in view of revise pay scale and the guidelines issued by the AICTE from time to time the Respondents State*

*Government being Competent Authority has revised recruitment rules of the post of Principal, Head of Department, Lecturer, Workshop Superintendent in Government Polytechnics & Equivalent Institute. A copy of the said recruitment rules dated 10.09.2012 is annexed herewith as Annexure-R-3.*

*Rule No. 3 of the aforesaid Government notification dated 10.09.2012 is reproduced below:-*

*"3. Appointment to the post of Principal of Government Polytechnics and Equivalent Institutes shall be made by nomination on the basis of strict selection on merit from amongst the candidates who,*

*(a) Are not more than 54 Year of Age;*

*(b) Possess the qualification and experience as prescribed by AICTE or relevant statutory body for this post from time to time.*

*12. A bare perusal of the provision of Rule No. 3 of the said recruitment rules would clearly reveal that, the post of Principal in Government Polytechnics & Equivalent Institute shall be only filled in by way of nomination and there would not be channel of promotion to the post of Principal. As such it can be clearly seen that, the post of Principal in Government Polytechnic Colleges has to be filled in by nomination only and the channel of promotion is not available."*

4. The applicants have submitted the Recruitment Rules dated 28/11/1993 for filling the posts of Principals in Government Polytechnic Colleges and some other posts in the Higher and Technical Education Department. The Clause 3(A) and (B) state that both promotion and nomination channels are available to fill the posts of Principal in Government Polytechnic Colleges. The Clause 4 makes it clear that appointment to the posts will be by nomination and promotion in the ratio of 50 : 50%.

5. Afterwards, the Government issued the Government Resolution dated 20/08/2010 to implement the 6<sup>th</sup> Pay Commission Pay Scales. Subsequently, the Government issued Revised Recruitment Rules regarding the Polytechnic colleges called the Principal, Head of Department, Lecturer and Workshop Superintendent in Government Polytechnics and Equivalent Institutes (Recruitment) Rules, 2012.

The Clause 3 of this Rules is regarding an appointment to the posts of Principal by nomination. The clause (3) is as follows:-

*“3. Appointment to the post of Principal of Government Polytechnics and Equivalent Institutes shall be made by nomination on the basis of strict selection on merit from amongst the candidates who,*

*(a) are not more than 54 Year of Age*

*(b) possess the qualification and experience as prescribed by AICTE or relevant statutory body for this post from time to time.”*

As there is no mention of promotional channel in the New Recruitment Rules, the posts of Principal are to be filled only by direct recruitment after the new rules were promulgated.

6. The Government issued a Government Resolution on 11/09/2019 to implement the 7<sup>th</sup> Pay Commission Pay Scales in Diploma level technical institutions as per AICTE scheme. This G.R. also mentions revised designations and modes of appointments to various posts based on the new AICTE guidelines. The Clause 2.1 of this G.R. mentions that the posts of Principal will be filled by both the direct recruitment and promotion. The Clause 2.22 of this G.R. is about Position of Principals. The Clause 2.22 is as follows:

***“ 2.22 Position of Principals***

*(1) Principal of AICTE approved institution has to be a full time faculty selected in accordance with the due process of selection to be adopted by the concerned State Government/DTE/Public Service Commission/ respective Board of Governors/Board*

*of Management etc., by taking into consideration the qualifications and other requirements as laid down by AICTE from time to time.*

*(2) This position shall be of contractual nature for a term of 5 years and can be extended for one more term depending upon the performance; and after completing the term the incumbent shall join back his/her parent organization in previous designation from where he/she proceeded.*

*(3) In an institution where several programmes under technical education approved by AICTE are running, the Principal shall be from one of the programmes preferably from a programme with maximum student strength.”*

The Clause 4.7 of this Government Resolution is as follows:

***“4.7 Qualifications for Principal***

***(Level-13A1, Entry Pay 131400/- with the special allowance of Rs. 4500/- per month)***

***(a) Direct Recruitment***

*Ph.D. and First Class at either Bachelor's or Master's level in the relevant discipline with minimum of 16 years of experience in Teaching/Research/ Industry, out of which at least 3 years shall be post Ph.D. experience and 5 years of experience not below the level of HoD.*

**OR**



*Bachelor's and Master's Degrees in relevant disciplines with First Class in either of the two and minimum of 20 years of experience in Teaching/Research/ Industry, out of which 5 years of experience not below the level of HoD.*

**(b) For promotion of the Incumbent**

*Ph.D. and First class at Bachelor's or Master's level in the relevant discipline with minimum of 16 years of experience in Teaching/Research/ Industry out of which 5 years shall be at the level of HoD and 3 years shall be post Ph.D. Experience; An average 360° feedback score of 5 to < 8 out of 10 for last 5 years.*

OR

*Bachelor's and Master's Degrees in relevant disciplines with First Class in either of the two, minimum of 20 years of experience in Teaching/Research/ Industry, out of which 7 years shall be not below the level of HoD. An average 360° feedback score of 8 to 10 out of 10 for last 5 years.”*

It can be clearly seen that as per the Government Resolution dated 11/09/2019 both channels are available for filling the posts of Principal. However, the Recruitment Rules of 2012 have not been modified to allow both these channels, and therefore, the channel of promotion is not available to fill these posts.

7. The recruitment rules prior to 2012 allowed filling of the posts of Principals in Polytechnic colleges by promotion and direct recruitment. The sixth pay commission was implemented by the G.R. of 2010 as per the guidelines by AICTE in this regard. The Recruitment Rules were again framed in 2012, in supersession of all the earlier rules in 2012. These rules provide for only the direct recruitment. The seventh pay commission pay scales were introduced by the G.R. issued in the year 2019. This G.R. dated 11/09/2019 has provided for both promotion and direct recruitment to fill these posts. The respondents have mentioned in their reply that the Government follows the guidelines of the AICTE. However, the respondents have not explained as to why the Recruitment Rules have not been revised in view of the new guidelines regarding the seventh pay commission. As the Recruitment Rules of 2012 do not provide for promotion, all the posts are being filled by direct recruitment only.

8. The Principal Bench of this Tribunal Bench at Mumbai has issued an order dated 12/04/2022 in O.A. No.323/2014 in the case of *Maharashtra Government Polytechnic Teachers & Ors.*

**VS. The State of Maharashtra & Ors.**, regarding the availability of promotional channel. The relevant portion is as follows:-

*“19. We have considered the rule relied by learned counsel Mr Bandiwadekar. It is true that the promotional avenues should not be closed by the authority and his name should be considered for promotion. In the present case, it cannot be said that the Government should have closed the promotional avenues of the applicant to the post of Head of the Department or Principal. By this amendment, the Government has taken decision to provide only one channel and i.e. the channel by nomination. Thus, the recruitment is only be by nomination, i.e. promotional channel is available and not closed. However, the opportunity to get promoted is not closed. The Government employee who is in service and working as a Lecturer or Professor is allowed to appear in the process of recruitment by nomination and he/she is also entitled to get the benefit of age relaxation being in-service Government employee. Thus, only the method of competition is changed and not the chance of promotion is curtailed. It is a misconception and misunderstanding of the applicant. Government has always power to change the policy of the recruitment process in order to get better qualified persons to attain higher standard and quality in work. There is no injustice in this process, the process demand merit.”*

9. The Tribunal has held that it is incorrect to say that the promotion channel is not available to the faculty in the lower cadre and they can always participate in the recruitment process

and get selected on merit. However, the Tribunal does not seem to have taken into consideration the fact that the G.R. dated 11/09/2019 regarding seventh pay commission specifically provides for both modes of recruitment, i.e. promotion and direct recruitment and as the Government has not amended the Recruitment Rules of 2012, there is a discrepancy between the recruitment policy declared by the G.R. dated 11/09/2019 and the Recruitment Rules of 2012. From the reply of the respondents, it seems that they do not wish to make any recruitment via the promotion channel, which is in contravention of the seventh pay commission guidelines declared by the G.R. dated 11/09/2019. The Clause 2.5 (iii) of this G.R., which is based on AICTE guidelines, expects that the screening/promotions are done annually to avoid stagnation. The Annexure II(III) of this G.R. gives composition of the committee for selection of the Principals of Polytechnics.

**10.** The last date of filing application in Advertisement No.068/2023 was 03/10/2023 and the process, might be at a fairly advanced stage. However, allowing all the posts to be filled by direct recruitment will take away the promotional rights given by

the G.R. dated 11/09/2019 to the applicants. Hence, we pass the following order:-

**O R D E R**

- (i) The O.A. is partly allowed;
- (ii) The respondents should first find out the number of Heads of Departments/faculty members eligible for promotion as per norms and then calculate the number of remaining vacancies available for direct recruitment to fill the posts of Principals in Government Polytechnics in line with the scheme declared by the G.R. dated 11/09/2019 regarding the seventh pay commission pay scales;
- (iii) The Advertisement No.068/2023 should be amended to give revised figure of vacancies for direct recruitment and the recruitment process should be conducted for this revised figure of vacancies. The Clauses 6.1 and 6.2 of this Advertisement allow such amendments;
- (iv) The Government should suitably amend the Recruitment Rules in line with the scheme declared

in the G.R. dated 11/09/2019 to allow the promotional channel for appointments to the posts of Principals in Government Polytechnics. Eligible candidates can then be promoted as per these rules;

(v) No order as to costs.

**Member (A).**

**Member (J).**

**Dated :- 09/04/2025.**  
**PRM**

I affirm that the contents of the PDF file order are word to word same as per original Judgment.

Name of Steno : Piyush R. Mahajan.

Court Name : Court of Hon'ble Member (A)  
& Member (J).

Judgment signed on : 09/04/2025