

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No. 1105 OF 2019

**MAGASVARGIYA SHIKSHAN SANSTHA
THROUGH ITS PRESIDENT KAILAS
S/O MANIKRAO GAVHAD & ANR.**

APPELLANTS

VERSUS

BHAUSAHEB SONAJI KAKADE & ORS.

RESPONDENTS

ORDER

1. This appeal, by special leave granted on 21st January, 2019, is directed against the judgment and order dated 6th May, 2016 passed by a learned Judge of the High Court of Judicature at Bombay, Bench at Aurangabad, allowing the writ petition of the first respondent.

2. The operative part of the impugned order reads as follows:

“91. Therefore, Appeal No.5/2013 stands partly allowed only to the extent of directing the petitioners to reinstate the appellant / employee as an Assistant Teacher on probation, so as to discharge his duties as a Probationer for the remainder period of 2 months from the date he is reinstated. After the completion of the 2 months of probation, the petitioner / management shall take a decision considering the overall performance of the appellant / employee of 2 years as a probationer in accordance with the requirements of the 1977 Act and 1981 Rules and pass, necessarily, a reasoned order with regard to whether the appellant employee deserves to be confirmed in service. Needless to state that the petitioners shall consider the total performance of the appellant/employee as a probationer from 2.8.2008 till 19.4.2010 and the further two months of probation as directed hereinabove.

92. Considering the peculiar facts of this case, the appellant/employee, if is aggrieved by the decision of the petitioners, which shall be forthwith communicated to him in writing, immediately after the conclusion of his remainder period of probation, he shall be at liberty to take recourse to the available legal remedy for questioning the legality of the decision of the management.

93. Rule is made partly absolute in the above terms. No order as to costs.”

3. Although the appellants had laid challenge to the said order and even special leave to appeal therefrom was granted, the directions contained therein

were implemented. The first respondent was reinstated in service, allowed to serve the remainder period of probationary service and at the end thereof, discharged from service.

4. Mr. Sandeep Sudhakar Deshmukh, learned counsel appearing for the appellants, submits that neither the order dated 6th May, 2016 nor the subsequent order of discharge was challenged by the first respondent in any proceeding.

5. Mr. Adgaonkar, learned counsel for the first respondent, does not dispute that he did not challenge the order dated 6th May, 2016. However, for want of instructions, he is not in a position to apprise this Court as to whether the subsequent order of discharge has been laid to challenge or not.

6. The position that undisputedly emerges is that the order dated 6th May, 2016 directing reinstatement of the first respondent in service and thereafter to consider whether he should be confirmed in service or not, has attained finality. In such view of the matter, nothing further survives for decision in this appeal; the same stands disposed of keeping the question of law, if any, open.

7. Pending interlocutory application(s), if any, shall stand disposed of.

.....J.
[DIPANKAR DATTA]

.....J.
[SHEEL NAGU]

**New Delhi;
September 23, 2026.**

ITEM NO.104

COURT NO.7

SECTION III

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 1105/2019

MAGASVARGIYA SHIKSHAN SANSTHA THROUGH
ITS PRESIDENT KAILAS S/O MANIKRAO GAVHAD & ANR. Appellant(s)

VERSUS

BHAUSAHEB SONAJI KAKADE & ORS. Respondent(s)

Date : 23-09-2026 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE SHEEL NAGU

For Appellant(s) : Mr. Nar Hari Singh, AOR
Mr. Sandeep Sudhakar Deshmukh, Adv.
Mr. Nishant Sharma, Adv.
Mr. Ankur S., Adv.
Mr. Kartik Sharma, Adv.

For Respondent(s) : Mr. Shashibhushan P. Adgaonkar, AOR
Mr. Anoop Raj, Adv.
Mr. Chirag Zanwar, Adv.

Mr. Aaditya Aniruddha Pande, AOR
Mr. Siddharth Dharmadhikari, Adv.
Mr. Shrirang B. Varma, Adv.
Mr. Sourav Singh, Adv.
Ms. Chitransha Singh Sikarwar, Adv.
Mr. Somanatha Padhan, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands disposed of in terms of the signed order placed on the file.

(JATINDER KAUR)
P.S. to REGISTRAR

(SUDHIR KUMAR SHARMA)
COURT MASTER (NSH)