

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3971 OF 2018

Shri. Vasant Appasaheb Arage

.....Petitioner

VERSUS

The State Of Maharashtra
Through The Secretary And Ors.

.....Respondents

Mr. Sagar A. Mane a/w. Mr. Rushikesh D. Jagdale, Ms. Neha Farakate i/b. Ms. Ashwini Bandiwadekar for Petitioner.

Mr. Abhijeet B. Desai i/b. Mr. Nitin P. deshpane for Respondent Nos.3 & 4.

Mr. R.P. Kadam, A.G.P. for Respondent-State.

Officer : Ms. Prabhavati Kolekar, Dy. Director of Education, present.

Coram : ANIL L. PANSARE &
RANJITSINHA RAJA BHONSALE, JJ.

Date : 4th May 2026.

P.C. :

1. On 29th April 2026 following order was passed :

“1. Heard learned counsel for the parties for some time.

2. The Respondent No.2 – Dy. Director of Education has not filed reply. When enquired, learned A.G.P. submits that the reply need not be filed saying that the grievance put forth by the Petitioner is against the Respondent No.3 -Rayat Shikshan Sanstha.

3. We have gone through the Petition. One of the averments is that on 11th August 2014, the Respondent No.2 informed the

Principal to submit proposal to grant individual approval. Since the Respondent No.2 do not wish to file reply, the said averment made by the Petitioner will have to be accepted.

4. *In that view of the matter, we call upon Respondent No.2 to explain the steps taken by him in respect of non-compliance of his directions, since Respondent No.2 is under an obligation to supervise and approve the filling of posts by aided and unaided schools, and having himself informed the Principal of the school to submit the proposal, it was incumbent upon him to ensure due compliance. His failure has caused the Petitioner to approach this Court. We may, therefore, consider directing Respondent No.2 to bear the costs of litigation incurred by the Petitioner.*
5. *Stand over to 4th May 2026.”*

2. In response Ms. Prabhavati Kolekar, Deputy Director of Education (Respondent No.2), is present. She submits that the Respondent Nos.3 & 4 i.e. Management and the Principal of the College have not forwarded the proposal for approval of appointment of the Petitioner. She further submits that the post on which approval is sought has been lapsed, because nobody was working on the said post. She further submits that the appointment of the Petitioner is not in compliance of Section 5 of The Maharashtra Employees of Private Schools (Conditions of Service) Act, 1977 (for short, “MEPS Act”).

3. The Respondent No.3 i.e. Management has filed reply admitting the

fact that the post in-question was not a sanctioned post and that the Petitioner was never appointed by following due process of law.

4. The Petitioner therefore shall place on record the advertisement, in response to which he has submitted his application seeking appointment.

5. Learned counsel for the Petitioner has invited our attention to the communication dated 3rd September 2009 issued by the Respondent No.2- Deputy Director in favour of the Respondent No.4 stating therein that the appointment of the Petitioner was made full time from the year 2009-2010 and that the post on which his appointment was made would require Government's sanction and thereafter approval to his appointment could be considered.

6. We have gone through the said document. It appears that in the year 2009-2010 the standard 11th & 12th of the Respondent No.4-College was admitted to 100% grant-in-aid and therefore full time post of Assistant Teacher was created, which according to the Respondent No.2, requires Government's sanction in terms of Government Resolution dated 26th March 2002. It further appears that upon receiving sanction to the post, approval of persons like Petitioner could be considered.

7. The Respondent No.2, who is present in the Court seeks time to file detailed reply.

8. As such, these contentions ought to have been put forth by the

Respondent Nos.1 & 2 by filing reply. However, on previous date despite our enquiry, learned A.G.P submitted that the reply need not be filed. Thus, for no valid reason, the learned A.G.P made such a statement. He now seeks permission to file reply, which we grant with a caution that he should be careful while taking a particular stand.

9. The Respondent Nos.1 & 2 shall file affidavit-in-reply within 14 working days, failing which they shall pay cost of Rs.15,000/- each. A copy of reply shall be served to the Petitioner's counsel well in advance.

10. Learned counsel for the Respondent Nos.3 & 4 also seeks time to file additional reply. Time granted. Additional reply be filed within 14 working days with an advance copy to the Petitioner's counsel.

11. List beyond vacation.

[RANJITSINHA RAJA BHONSALE, J.]

[ANIL L. PANSARE, J.]

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