



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 643 OF 2018

1. Patil Swati Krishna,
Aged 26 Years, Occ. Service,
R/o. Kale, Tal. Panhala,
District Kolhapur
2. Shri. Datta Shikshan Prasarak
Mandal, Panutre, Tal. Panhala,
Dist. Kolhapur,
Through its Chairman.Petitioners
Vs.
1. The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai - 400 032.
2. The Education Officer (Primary),
Zilla Parishad, Kolhapur.Respondents

Mr. Sagar Mane with Mr. Rushikesh Jagdale & Ms. Neha Farakate,
Advocate for Petitioners.

Mrs. Shubhangi N. Deshmukh, APP, for the Respondent No.1-State.

Mr. Kedar Lad with Ms. Poonam Dhotre, for the Respondent No.2.

CORAM: ANIL L. PANSARE,

RANJITSINHA RAJA BHONSALE, JJ.

DATED: 6th MAY 2026

JUDGMENT :- (Per Anil L. Pansare, J.)

1. **Rule.** Rule made returnable forthwith.
2. On 29th April 2026, the following order was passed:



“1. The Petitioner No.1 was appointed as ‘Assistant Teacher’ by order of appointment dated 21st August 2013. The proposal for approval to the appointment has been rejected by the Respondent No.2 for three reasons. One is that, the approval of Respondent No.2 to fill in the post was not obtained. Second is that, the advertisement for filling the post was not issued. Learned counsel for Respondent No.2 submits that, in view of Section 5 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, prior permission of Respondent No.2’s office is required before issuing any advertisement. Such permission has been not taken. Third is that, the explanation given to the letter dated 7th April 2015 issued by the Respondent No.2 is not relevant.

2. Learned counsel for the Respondent No.2 submits that on 7th April 2015 the Respondent No.2 refused proposal seeking approval to appointment of Petitioner No.1. In response, the Petitioner No.1 has furnished detailed explanation dated 29th April 2015 stating therein that in the August 2013 there was no policy of the State Government to absorb the surplus teachers. So far as seeking prior approval for filling post, the Principal of the school has stated that in the year 2013-2014 the school was unaided and therefore was not getting any grants from the Government.

3. Learned counsel for the Respondent No.2 has invited our attention to the paragraph No.2 of the Petition wherein the



Petitioners have stated that the school was held eligible for grant to the standard 5th to 7th at 40% from June 2011, 60% from June 2012, 80% from June 2013 and 100% from June 2014. He accordingly submits that at the relevant time i.e. in August 2013 the school was receiving 80% grant and therefore the explanation put forth by the Principal of the School is misleading.

4. Thus, it appears that prior permission to publish advertisement to fill in the post was necessary, considering the fact that the school in question was receiving grant-in-aid at 80% in August 2013. The same admittedly has been not taken.

5. Learned counsel for Respondent No.2 further submits that, in May 2012, the State Government took a policy decision that unless surplus teachers are absorbed, aided or unaided schools shall not appoint teaching or non-teaching staff. Thus, it is argued that in the year 2013 the policy of absorbing surplus teachers was in existence and the Petitioners have made an incorrect statement in the explanation.

6. We find substance in the submissions so made by the learned counsel for the Respondent No.2 in support of rejecting the proposal for approval of Petitioner No.1's appointment.

7. Learned counsel for the Petitioners, however, seeks time on account that the arguing counsel is not available today. Time granted.

8. Stand over to 5th May 2026."



3. Thus, in the pleadings, the Petitioners have made a statement that from June 2013, the school was receiving 80% grant. That being so, prior permission to publish advertisement to fill in the posts of 'Assistant Teacher' was necessary. The same, admittedly, has been not taken by the Petitioners.

4. The counsel for Petitioners has, however, invited our attention to communication dated 25th March 2014 made by Respondent No.2- Education Officer in favour of Respondent No.1, wherein it is mentioned that school is admitted to grant-in-aid with effect from June 2011. Accordingly, he submits that though the school was admitted to grant-in-aid since June 2011, the decision to that effect was communicated to Respondent No.1 only in March 2014. That being so, he submits that in August 2013, when the advertisement was issued, this decision was not conveyed to Respondent No.1 and in that sense, the school was not admitted to grant-in-aid and, therefore, prior permission to issue advertisement for appointment of 'Assistant Teacher' was not necessary.

5. The counsel for Respondent No.2 has countered this submission by inviting our attention to the advertisement published



by Respondent No.1 (Exhibit-B page No.22). The advertisement was issued on 31st July 2013 inviting applications for the posts in the school, which is admitted to 80% grant-in-aid. Accordingly, he submits and rightly so that the Petitioners were aware in July 2013 that school was admitted to grant-in-aid. Despite such status, a misleading statement is made by the Petitioners.

6. Thus, it appears that the Principal of the school under question has made a misleading statement and the Petitioners continued the said stand despite giving opportunity to them vide order dated 29th April 2026.

7. The Petitioners, thus, carry a blame of making incorrect/misleading statement to seek relief. The Petitioners have not approached the Court with clean hands. In the circumstances, we find no reason to invoke equity jurisdiction in the present case.

8. The Petition is accordingly dismissed. No order as to costs.

(RANJITSINHA RAJA BHONSALE, J.)

(ANIL L. PANSARE, J.)