

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9747 OF 2017**

Gram Vikas Shikshan Mandal,
Ainwadi Through Its President/Secretary & Ors.Petitioners

Vs.

The State Of Maharashtra & Ors.Respondents

Mr. Prashant Bhavake, adv. for the Petitioners.

Ms. S. N. Deshmukh, AGP, for the Respondent-State.

Mr. Narayan Vishnu Mali, Superintendent Education Department.

Z.P. Sangli.

CORAM: ANIL L. PANSARE,

RANJITSINHA RAJA BHONSALE, JJ.

DATED: 27th APRIL 2026

PC.:-

1. The challenge is to the order dated 2nd May 2017 passed by Respondent No.5- Education Officer, whereby the proposal submitted by Petitioner Nos.1 and 2 seeking individual approval to the appointment of Petitioner No. 3 as Shikshan Sevak in Petitioner No.2- School has been rejected.

2. The reason assigned for rejection is non-compliance of the proviso to Section 5(1) of the Maharashtra Employees of Private Schools (MEPS) Act, 1977. Section 5(1) of the said Act reads as under:

“5. Certain obligations of Management of private schools.— (1) The Management shall, as soon as possible, fill in, in the manner prescribed, every permanent vacancy in a private school by the appointment of a person duly qualified to fill such vacancy: 1[Provided that, unless such vacancy is to be filled in by promotion, the Management shall, before proceeding to fill such vacancy, ascertain from the Educational Inspector, Greater Bombay, 2[the Education Officer, Zilla Parishad or, as the case may be, the Director or the officer designated by the Director in respect of schools imparting technical, vocational, art or special education,] whether there is any suitable person available on the list of surplus persons maintained by him, for absorption in other schools and in the event of such person being available, the Management shall appoint that person in such vacancy.]”

3. As could be seen, the management is under an obligation to fill every permanent vacancy in a private school by appointing a person duly qualified to occupy such vacancy. By the proviso a duty is cast upon the management to first verify with the Education Officer, Zilla Parishad, or such other competent authority, about the availability of suitable persons from the list of surplus employees maintained by the competent authority for absorption in the school.

4. The argument is that, vide letter dated 2nd June 2014, the management had requested the Education Officer, Zilla Parishad,

Sangli, to provide a list of surplus teachers, if available, and, in the event no such teachers were available, sought permission to fill the vacancy by publishing an advertisement. Further, the permission to publish an advertisement was also sought.

5. The learned counsel for the Petitioners submits that Respondent No.5– Education Officer did not respond to the said communication and, accordingly, the management proceeded to fill the post and appointed Petitioner No. 3. The Appointment was made on 7th July 2014. The approval was refused vide order dated 2nd May 2017. The argument is that the position of surplus teachers as existing in June 2014 ought to have been considered, and not the position as existed in May 2017.

6. Thus, two grounds are urged: first, that the compliance mandated under Section 5(1) was duly fulfilled; and second, that the refusal to grant approval is founded not on the data available at the time of appointment of Petitioner No.3, but on the material considered at the stage of examining the proposal.

7. The Respondent No.5 has filed a reply, however, the aforesaid

grievance, as put forth, has been not dealt with.

8. The learned AGP seeks time. As such, Respondent No. 5 should have considered the proposal for approval in terms of the provisions of law and should have dealt with the entire controversy. Nonetheless, as a last opportunity, one week's time is granted. The reply on this point shall be filed on or before 4th May 2026. A copy of shall be served upon the learned counsel for the Petitioners in advance.

9. List on 5th May 2026.

(RANJITSINHA RAJA BHONSALE, J.)

(ANIL L. PANSARE, J.)