



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 3RD DAY OF FEBRUARY 2026

BEFORE

THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

WRIT PETITION NO. 107179 OF 2025 (S-RES)

BETWEEN:

ANNIGERI EDUCATION SOCIETY
NIJALINGAPPA SHIVAPPA HUBBALLI ROAD,
TQ: ANNIGERI,
DIST: DHARWAD,
REPRESENTED BY ITS CHAIRMAN.

...PETITIONER

(BY SRI. S.A.SONDUR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
THROUGH UNDER SECRETARY-1
(SERVICE RULES),
DEPARTMENT OF PERSONNEL
AND ADMINISTRATIVE REFORMS,
VIDHANA SOUDHA,
BENGALURU-560001.
2. THE COMMISSIONER
SCHOOL EDUCATION DEPARTMENT,
RODDA ROAD,
TQ. DIST. DHARWAD-580001.
3. THE DEPUTY DIRECTOR
SCHOOL EDUCATION DEPARTMENT,
(ADMINISTRATIVE),





RODDA ROAD,
TQ. DIST. DHARWAD-580001.

4. THE BLOCK EDUCATION OFFICER
NAVALAGUND,
TQ. NAVALAGUND,
DIST. DHARWAD-582208.

...RESPONDENTS

(BY SMT. NANDINI B.SOMAPUR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED CIRCULAR BEARING NO.SIASUE 386 SENIVI 2024 DATED 11.04.2025 ISSUED BY RESPONDENT NO.1 VIDE ANNEXURE-R; CONSEQUENTLY, ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED ENDORSEMENT BEARING NO.G2(1)/SHASHIA/KHAHUTU/2120/2024-25 DATED 19.06.2025 ISSUED BY RESPONDENT NO.3 VIDE ANNEXURE-P; CONSEQUENTLY, ISSUE A WRIT IN THE NATURE OF CERTIORARI QUASHING THE IMPUGNED COMMUNICATION BEARING NO.A1/NR6/BAAHUBA/N.S.H./23-24 DATED 23.06.2025 VIDE ANNEXURE-Q ISSUE BY RESPONDENT NO.4; ISSUE A WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENTS TO APPROVE THE SELECTED CANDIDATES AND TO RELEASE THE GRANT IN AID IN RESPECT OF THE SELECTED CANDIDATES, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MRS JUSTICE K.S.HEMALEKHA



ORAL ORDER

The petitioner has approached this Court in this writ petition seeking to quash the impugned endorsement dated 19.06.2025 issued by respondent No.3 (Annexure-P) and the communication dated 23.06.2025 issued by respondent No.4 (Annexure-Q), whereby the recruitment process initiated by the petitioner was directed to be cancelled on the ground that, in view of the Government Circular, all direct recruitment processes initiated after 28.10.2024 were to be cancelled.

2. **Brief facts;**

The petitioner-Society is running two Schools in Annigeri Taluk by name 1) Shri Amruteshwara Composite Pre-University College and 2) N.S.Hubballi Girls High School, Annigeri. In the said two institutions, there are totally 8 vacant posts of Teachers. A resolution was passed for filling up the said posts and permission of respondent No.4 was sought in this regard. The proposal was submitted



to fill up 8 posts of Teachers in the Institutions. Respondent No.3 granted permission to fill a post which had fell vacant on 31.12.2015 and as such, subsequently, the petitioner submitted the proposal for filling up (i) one post of Assistant Teacher for Social Science subject in Shri Amruteshwara Composite Pre-University College and (ii) one post of Chemistry Biology Zoology (CBZ) Assistant Teacher in N.S. Hubballi Girls High School, Annigeri.

3. The proposal was forwarded by respondent No.4 and approved by respondent No.2 on 04.11.2024. Pursuant to which, the petitioner-Society published advertisement and respondent No.3 nominated members to the selection committee.

4. Due to intervening circumstances, the selection process could not be completed on the earlier notified dates and was rescheduled. The selection process was thereafter conducted in accordance with due procedure and one candidate was selected for each post.



5. However, when the proposal for approval was forwarded, respondent No.3 issued endorsement stating that in view of the Circular dated 11.04.2025 directing cancellation of all direct recruitment processes initiated after 28.10.2024, the selection process could not be completed. Consequently, communications at Annexures-P and Q, were issued cancelling the process, aggrieved the petitioner is before this Court.

6. Learned counsel for the petitioner submits that the entire selection process was completed in accordance with law after obtaining prior approval. Teachers of private aided institution do not hold 'civil post' under the State Government. The Circular relating to direct recruitment to civil posts cannot be made applicable to appointments in private aided institutions. In support of his contention, he places reliance upon the decision of the Apex Court in the case of ***State of Assam and Others Vs. Kanak Chandra***



Dutta¹ (*Kanak Chandra Dutta*) to contend that the 'civil post' means post not connected with defense outside the regular civil services and relies upon paragraph Nos.9 and 10 of the judgment. Further places reliance upon the case of **State of Karnataka Vs. B.R.Chowdappa**² (*B.R.Chowdappa*), wherein it is held that *there is no master and servant relationship between the teaching and non-teaching staff and the Government*. Further, reliance is placed upon the case of **M.B.Udapudi Vs. The Principal Secretary**³ (*M.B.Udapudi*), wherein it is held that *the employees of Private-aided Institutions are different from the civil servants and altogether constitute a different class*.

7. *Per contra*, the learned Additional Government Advocate for the respondents justifies the action on the part of the respondents and submits that the Teachers in an aided School are, for all practical purposes, treated akin to

¹ AIR 1967 SC 884

² W.A No.1833-1836/1995 D.D.30.05.1998

³ W.P No.967/2003 D.D.12.01.2005



holders of 'civil post' under the State. Government Order dated 25.11.2024 mandates implementation of reservation from 28.10.2024 onwards. Since permission was granted on 04.11.2024 (after the cut-off date), the recruitment falls within the prohibited period. Reliance is placed on the decision of the Apex Court in the case of ***Vikram Bhalchandra Ghongade Vs. The Headmistress girls High School and Junior college, Anji (Mothi), Tah and distt.Wardha and Others⁴*** (Vikram Bhalchandra Ghongade).

8. This Court has carefully considered the rival submissions and perused the material on record.

9. The appointment of Teachers in a Private Educational Institution is made by the management subject to the approval of the Government. This includes appointment, payment of salary, Code of conduct, dismissal or removal. But, at no stretch of imagination can it be said

⁴ SLP No.19436/2024 D.D.14.07.2025



that there is a master and servant relationship between the teaching and a non-teaching staff with that of the Government. Similar consideration came before the Division Bench of this Court in the case of **B.R.Chowdappa**, wherein this Court, by placing reliance upon the decision of the another Division Bench of this Court in the case of **Shivaji High School Vs. Prabhakar Jotiba Bamane**⁵ (Shivaji) has held at paragraph No.10 as under;

"10. In the circumstances of the case and in the light of the principles we have enunciated, the Government cannot refuse to release the grant towards the dues payable to Prabhakar Jotiba Bamane. The Management may, therefore, move the concerned authority for appropriate relief."

10. The Apex Court in the case of **Kanak Chandra Dutta** has observed that there is no formal definition of "post" and "civil post", the sense in which they are used in services, it is held that there is no relationship of a master

⁵ ILR 1985 KAR 3979



and servant between the State and a person said to be holding a post under it. A person who holds a civil post under a State holds, "office" during the pleasure of the Governor of the State, except as expressly provided by the Constitution. A post under the State is an office or a position to which duties in connection with the affairs of the States are attached. An office or a position to which a person is appointed and which may exist apart from and independently of the holder of the post and held at paragraph Nos.9 and 10 as under;

" 9. The question is whether a Mauzadar is a person holding a civil post under the State within Art. 311 of the Constitution. There is no formal definition of "post" and "civil post". The sense in which they are used in the Services Chapter of Part XIV of the Constitution is indicated by their context and setting. A civil post is distinguished in Art. 310 from a post connected with defence; it is a post on the civil as distinguished from the defence side of the administration, an employment in a civil capacity under the Union or a State. See marginal note to of Arts. 311. In Article 311, a member of a



civil service of the Union or an all-India service or a civil service of a State is mentioned separately, and a civil post means a post not connected with defence outside the regular civil services. A post is a service or employment. A person holding a post under a State is a person serving or employed under the State. See the marginal notes to Arts. 309, 310 and 311. The heading and the sub-heading of Part XIV and Chapter I emphasise the element of service. There is a relationship of master and servant between the State and a person holding a post under it. The existence of this relationship is indicated by the State's right to select and appoint the holder of the post, its right to suspend and dismiss him, its right to control the manner and method of his doing the work and the payment by it of his wages or remuneration. A relationship of master and servant may be established by the presence of all or some of these indicia, in conjunction with other circumstances and it is a question of fact in each case whether there is such a relation between the State and the alleged holder of a post.

10. In the context of Articles 309, 310 and 311, a post denotes an office. A person who holds a civil post under a State holds "office" during the pleasure of the Governor of the State, except as



expressly provided by the Constitution. See Article 310. A post under the State is an office or a position to which duties in connection with the affairs of the State are attached, an office or a position to which a person is appointed and which may exist apart from and independently of the holder of the post. Article 310(2) contemplates that a post may be abolished and a person holding a post may be required to vacate the post, and it emphasises the idea of a post existing apart from the holder of the post. A post may be created before the appointment or simultaneously with it. A post is an employment, but every employment is not a post. A casual labourer is not the holder of a post. A post under the State means a post under the administrative control of the State. The State may create or abolish the post and may regulate the conditions of service of persons appointed to the post."

11. The learned Single Judge of this Court in **M.B.Udapudi's** case has clarified that the employees of a Private-Aided Institutions constituted a separate class distinct from civil servants.

12. From the judgments stated *supra*, the law is well settled and no more a *res integra* that the employees of the



private aided institution, though subject to regulatory control and grant-in-aid mechanism, do not stand in a master-servant relationship with the State Government.

13. The Apex Court in the case of **Vikram Bhalchandra Ghongade** has held at paragraph No.7 as under:

"7. On the question of the teacher's entitlement to the provisions of the Gratuity Act, it has to be held that the decision in Birla Institute of Technology puts to rest any such controversy. The question here would be not so much the entitlement to gratuity but as to whether the legal heirs of a deceased teacher in an aided school would be entitled to gratuity under the 1972 Act or under the 1982 Rules. The argument of the State is that an aided school employee, including a teacher would be exempted from the definition of an employee under the Act. Per contra it is argued that the exemption is only to a person who holds a post under the Central Government or State Government. An aided school teacher does not hold a post under the State Government, contends the appellant."



14. Though the Apex Court in ***Vikram Bhalchandra Ghongade***'s case observed that the aided school Teachers may be treated akin to Government servants only for limited purpose, such as gratuity or monetary benefits and not for any other purpose as held in the impugned endorsement and such treatment does not convert their post into 'civil post' under the State for all purposes.

15. Therefore, the Circular directing cancellation of direct recruitment to 'civil post' cannot automatically apply to appointments made by private-aided Institutions pursuant to approved vacancies. Thus, the impugned endorsement and communication issued by the respondents suffer from illegality and warrants interference by this Court. Accordingly, this Court pass the following;

ORDER

- i) The writ petition is ***allowed***.
- ii) The impugned endorsement dated 19.06.2025 issued by respondent No.3



(Annexure-P) and the impugned communication dated 23.06.2025 (Annexure-Q) issued by respondent No.4 are hereby ***quashed.***

iii) A mandamus is issued to the respondents directing to approve the selected candidates and release the grant-in-aid in respect of the selected candidates within a period of six (6) weeks from the date of receipt of copy of this order.

Sd/-
JUSTICE K.S.HEMALEKHA