

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3294 OF 2025

District: Kolhapur

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|----|---------------------------------------|---|-----------------|
| 1. | Vikas Shikshan Mandal, |] | |
| | Savarde (Budruk), Taluka : Kagal, |] | |
| | District : Kolhapur, |] | |
| | Through its President / Secretary. |] | |
| 2. | Shri Mahalaxmi Girl's High School, |] | |
| | Savarde (Budruk), |] | |
| | Taluka : Kagal, District : Kolhapur, |] | |
| | Through its Head Mistress. |] | |
| 3. | Shri Sambhaji Sadashiv Sandugade, |] | |
| | Age : 32 Years, Occupation Service, |] | |
| | R/o. A/P. Savarde Budruk, Tal. Kagal, |] | |
| | District : Kolhapur. |] | ... Petitioners |

Versus

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|----|-----------------------------------|---|
| 1. | The State of Maharashtra |] |
| | Through the Secretary, |] |
| | School Education and Sports |] |
| | Department, Mantralaya, |] |
| | Mumbai – 400 032. |] |
| 2. | The Commissioner of Education |] |
| | School Education Department, |] |
| | Maharashtra State, Pune. |] |
| 3. | The Director of Education, |] |
| | (Secondary and Higher Secondary), |] |

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|----|--|---|-----------------|
| | Maharashtra State, Pune-1. |] | |
| 4. | The Deputy Director of Education, |] | |
| | Kolhapur Region, Kolhapur, |] | |
| | Having office at Somwar Peth, |] | |
| | Hatti Mahal, Ganji Galli, |] | |
| | Kolhapur – 416 002. |] | |
| 5. | The Education Officer (Secondary), |] | |
| | Zilla Parishad, Kolhapur. |] | |
| | Having Office at 3 rd Floor, Zilla Parishad |] | |
| | Building, Nagala Park, Kolhapur. |] | ... Respondents |

Mr. Prashant Bhavake for the Petitioners.

Mr. A.P. Vanarase, A.G.P. for the Respondents-State.

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : 23rd December 2025.

ORAL JUDGMENT (PER : AJIT B. KADETHANKAR, J.)

1. The Petitioners are aggrieved by the rejection Order dated 27-10-2022 passed by the Education Officer (Secondary), Zilla Parishad, Kolhapur, whereby the proposal for approval to the appointment of Petitioner No.3 is turned down.

2. The Petitioners submit that after completing the due process the Petitioner No.3 is appointed on the subject matter post of 'Peon' from the date of 01-04-2014.

3. Mr. Bhavake, learned counsel for the Petitioners would submit that the appointment of the Petitioner No.3 on the subject matter post is absolutely legal and not a violation of any Rules, Regulations or Government Resolutions (G.R.). He would further submit that the Authority i.e. the Education Officer, however without giving any opportunity of hearing to the Petitioners, directly turned down the approval proposal rendering some technical reasons as well as such reasons that won't stand in the light of the law developed in the field.

3.1 Since the issue pertains only to the rejections of the approval proposal on the objections recorded in the impugned Order, we directly deal with the subject matter issue to decide the Writ Petition finally, by consent of the parties.

4. We have heard Mr. Bhavake, learned counsel for the Petitioner and Mr. Vanarase, learned A.G.P. for the Respondents-State.

5. Mr. Bhavake, learned counsel for the Petitioner argued to demonstrate how the concerned Authority erroneously turned down the approval proposal while on the other hand Mr. Vanarase, learned A.G.P. stood by the impugned rejection Order justifying the logic applied by the concerned Authority i.e. the Education Officer.

6. Considering the rival arguments advanced by the respective parties, we record our findings as follows.

6.1 We find that there are in all (08) objections recorded by the concerned Authority while turning down the approval proposal. Those objections are at page 100 (Exhibit 'H' of the Writ Petition).

6.2 As could be seen, there are two types of objections recorded by the Education officer. First type records non-submission of some documents and unexplained delay in filing the approval proposal. Second type includes bans and restrictions imposed by various Government Resolutions.

6.3 Mr. Bhavake, Learned Counsel would submit if an opportunity of hearing is given, the Petitioners can submit the requisite documents to the Authority and can also convince about the delay. He would submit that the delay won't be fatal to an approval proposal.

6.4 Mr. Bhavake would further categorically demonstrate how the Authority had been misconceiving in application of various Government Resolutions. For convenience we record the objections raised by the Authority and the answer given by the Petitioner as follows.

Sr. No.	Objection raised in rejection order	Petitioner's explanation
1	Subject-matter appointment is in exception to the new Staffing pattern of 2013. Vacancy not seen as per new staffing pattern.	Petitioner was appointed on a post fallen vacant due to superannuation of the employee already working in the school and retired from the subject-matter post. Besides, Staffing pattern of 2013 never stood implemented. Hence this objection is not sustainable.

2	Ban on recruitment vide G.R. dated 10-06-2010	This ban was only for One year from the date of issuance of the said Government Resolution. The subject-matter appointment is post such ban period. Hence this objection is not sustainable.
3	Status Quo imposed by the G.R. dated 12-02-2015	Subject-matter appointment is dated 15-06-2014 i.e. much before the G.R. dated 12-02-2015. The said rider shall not be retrospectively applied to the subject-matter appointment.
4	Restrictions contained in the G.R. dated 28-01-2019	Subject-matter appointment is dated 15-06-2014 i.e. much before the G.R. dated 28-01-2019. The said G.R. shall not be retrospectively applied to the subject-matter appointment.
5	Restrictions contained in G.R. dated 11-12-2020	Subject-matter appointment is dated 15-06-2014 i.e. much before the G.R. dated 11-12-2020. The said G.R. shall not be retrospectively applied to the subject-matter appointment.
6	G.R. dated 02-05-2012	This G.R. shall not be applicable to the appointments made to fill in the backlog of reserved posts.

6.5 The petitioner relies upon the following case-laws to answer the objections:-

Sr. No.	Case-Laws	Held as
1	Shrikrishna Bondge Vs. State of Maharashtra & Ors. Writ Petition No. 3525 of 2019. Decided at Principle Seat on 19-01-2021.	The Government Resolutions and restrictions therein, issued post appointment order shall not have a retrospective effect.
2	Prashant Delekar Vs. State of Maharashtra & Ors. Writ Petition No. 2401 of 2019. Decided at Principle Seat on 10-02-2021.	-do-
3	Suman Kakad Vs. State of Maharashtra & Ors. 2011(Supp.) BCR 943	-do-
4	Munoli Karabasappa Vs. State of Maharashtra & Ors. Writ Petition No. 8587 of 2017. Decided on 10-07-2017.	Appointments made under special drive to fill up backlog of reserved posts in the light of GR dated 29-11-2010, extended by 02-08-2011, further extended till 31-03-2014 vide G.R. dated 21-08-2013.

6.6 We are of the considered opinion that the Petitioners must get full opportunity of hearing to submit the requisite and deficit document and to convince the authority on other objections.

6.7 Indeed the Authority is under obligation to mindfully consider the case laws relied upon by the Petitioners against every respective objection. So far as submission of the deficit documents are concerned, the Petitioners are at liberty submit such documents. The Authority must bear in mind that delay in submission of the approval proposal shall not be fatal to the proposal itself, unless some candid and concrete material indicating fraud, or manipulation of record, or misrepresentation of facts is revealed. In any event the Authority must assign detailed reasons in respect of the objection, if any, by affording a hearing to the Petitioners.

6.8 There could be no doubt that the Education Officer is appropriately empowered to look meticulously into the Approval Proposal. Such authority is absolutely justified in looking into each aspect of the proposal.

6.9 However, It has to be born in mind that when a proposal for approval to an appointment is submitted, there are a number of procedures behind every appointment and at every stage there is an occasion on which issues have been arisen in past, as well as are even arising these days.

6.10 In the due course of time, the process of appointments in the private schools has been sought to be improved by the State Government by issuing various guidelines, instructions, government

resolutions etc. from time to time.

Those Government resolutions, instructions, guidelines are obviously to ensure correct and efficacious application of reservation roaster, to resolve the issues arisen due to the requisite qualifications corresponding to the posts to be filled in, to ensure placement of employees who stood surplus either due to development in roaster, staffing pattern, workload and such all aspects and factors which affect the service conditions of the employees in private schools.

6.11 A judicial note can be taken that the uprising steps were initiated by the State Government on account of observations made by and direction issued by this Court in a number of matters those were placed before it in respective cases. It could be appropriately mentioned that as an effect of the law laid down by the Hon'ble Supreme Court in the cases in respect of service conditions of the private School employees in the State of Maharashtra, and the law developed by this Court in the field, the State Government was constrained to issue various government resolutions on the service conditions of the private School employees.

6.12 Interpretation and judicial review of the executive orders as also of the governmental decisions is a continuous process. Yet, as is in the case in hand, instances are surfaced where the executives deal with the cases without testing the decisions in the light of the decisions

rendered by this court and the law laid down therein.

6.13 This Court has come across a number of approval rejection cases on the same petty and unreal grounds on which this court has time and again rendered decisions explaining how the reasons for the rejection are erroneous. However, yet the rate of rejection orders on the same grounds is not reduced, and the Authorities are found to give a nelson's eye to the law developed in the field of the approvals to the appointments in the private School. This is nothing but only in a mechanical way.

6.14 We hope and trust that the respondent authorities would meaningfully apply the citations and the court decisions placed in service by the Parties i.e. the private School employees, the School authorities, and the School Management, as the case may be. The higher authorities shall issue necessary instructions to the subordinate authorities accordingly to avoid unnecessary litigation.

7. In the light of above, we dispose of the Writ Petition with following directions:-

- (i) The impugned rejection Order dated 27-10-2022 is set aside and is being treated as Show Cause notice to the Petitioners.
- (ii) Within four weeks from the date of receipt of this Order's copy, the Petitioners shall resubmit the subject-matter approval proposal to the concerned Education Officer

along with such documents and case laws, that would justify the proposal.

- (iii) The Education Officer shall grant a personal hearing to the Petitioners within a period of four weeks from the date of resubmission of the proposal by the Petitioners.
- (iv) While adjudicating the resubmitted proposal, the Education officer shall categorically record his findings on each point. While doing so, the Education Officer shall duly consider and apply the law relied upon by the Petitioners and shall record specific reasons if he finds that any of the cited case law is not applicable to the issue involved.
- (v) If the Education Officer stands satisfied on the explanation tendered by the Petitioners on each issue, he shall grant approval accordingly.
- (vi) If approval is granted, Shalarth Identity be processed accordingly with consequential release of grant, if and as applicable.
- (vii) We direct that in any event the Education Officer must meaningfully, seriously and responsibly apply the case law on the respective objections.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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