



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

WRIT PETITION NO. 3992 OF 2026

Uttareshwar Ramhari Mundhe And Others

...Petitioners

Versus

The State of Maharashtra and Others

...Respondents

Mr. Prathameesh P. Magadum, for the Petitioners.

Mr. Prajwal Thorat for Respondent No.4.

Ms. Tejas J. Kapre, AGP for the Respondent-State.

**CORAM : SHARMILA U. DESHMUKH &
NEERAJ P. DHOTE, JJ.**

DATE : SEPTEMBER 02, 2026.

P. C. :

1. By the present Petition, the Petitioners challenge the impugned communication dated 10th July, 2026 and the impugned order dated 28th July, 2026 issued by the Education Officer, reviewing its own order granting approval to the re-employment of Petitioner No.1 as Headmaster, which decision was taken by the management under Rule 17(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short "**MEPS Rules**").

2. Learned counsel appearing for the Petitioners would submit that the Petitioner No.1 had superannuated on 30th June, 2026, which was in

the middle of the semester, and in order to ensure the smooth functioning of the Petitioner No.3 and in exercise of the powers under Rule 17 (2) of the MEPS Rules, the Petitioner No.2 Management decided to extend the term of the Petitioner No.1 till 31st December, 2026. He submits that accordingly, a resolution was passed on 28th June, 2026 and an appointment order was issued extending the term of the Petitioner No.1 on the post of the Headmaster from 1st July, 2026 till 31st December, 2026. He would further submit that before submitting the proposal for approval of the Petitioner No.1's re-employment to the Education Officer, the management prepared a seniority list and finalized the same by taking signatures of all the employees, which included Respondent No.4 herein, stating that there is no objection by any employee. He submits that it is therefore not open now for the Respondent No.4 to resile from the said no objection and raise a grievance. He would further submit that the management sent a proposal on 28th June, 2026 to the Respondent No.3 - Education Officer, who granted approval on 5th July, 2026. He submits that the Respondent No.4 raised a complaint before the Respondent No.3 - Education Officer, pursuant to which the Respondent No.3 issued the communication dated 10th July, 2026 instructing the management to submit a fresh proposal. He submits that thereafter the impugned order has been passed on 28th July, 2026 cancelling the earlier approval granted to the

Petitioner No.1's re-employment. He would submit that there was no power of review vested in the Education Officer, drawing support from the decision of the Hon'ble Division Bench of this Court in the case of ***Abdul Jabbar Shaikh versus the The State of Maharashtra and Others¹***.

3. *Per contra*, learned counsel appearing for the Respondent No.4, who had complained against the grant of approval, would submit that the order of the Education Officer has now been confirmed by the Deputy Director of Education on 5th August, 2026. He would further submit that the proposal sent by the management was itself in violation of Rule 17 of the MEPS Rules inasmuch as it is only where the superannuation takes place in the middle of the academic term that a decision can be taken by the management. He submits that in the present case, the Petitioner No.1 retired on 30th June, 2026, which cannot be said to be the middle of the academic term. He would further submit that the expression used in Rule 17 of the MEPS Rules is "re-employment beyond the age of superannuation", whereas the approval which has been granted by the Education Officer was for extension, and therefore the order was clearly unsustainable.

4. Learned AGP would support the impugned order and would submit that as the approval which was granted was in violation of Rule

1 Writ Petition No. 460 of 2022 decided on 30th January, 2023.

17 of the MEPS Rules, the Education Officer has rectified the error and has cancelled the approval granted earlier.

5. We have considered the submissions and perused the record.

6. There is no dispute about the factual position that the Petitioner No.1 had superannuated on 30th June, 2026 and a decision was taken by the management to re-employ the Petitioner No.1 and accordingly the resolution was passed by the management. Perusal of the resolution would indicate that it was resolved under Rule 17 (2) of the MEPS Rules and the Petitioner No.1 be granted extension till 31st December, 2026. Accordingly, the proposal was sent to the Education Officer after obtaining the no-objection of the employees which also included the Respondent No.4. Having given his no objection before sending the proposal to the Education Officer, it is now not open for the Respondent No.1 to approbate and reprobate. Be that as it may, the Education Officer has thereafter approved the proposal and though a contention is sought to be raised that the approval is for the extension, the phraseology is immaterial inasmuch as it cannot be disputed that the extension/re-employment of the Petitioner No.1 was in exercise of the powers of the management under Rule 17 of the MEPS Rules.

7. The core issue which is required to be considered is whether, having granted an approval to the Petitioner No.1's re-employment, any

power of review existed in the Education Officer to review its own order and cancel its earlier approval.

8. In the case of ***Abdul Jabbar Shaikh versus the The State of Maharashtra and Others*** (supra), the Hon'ble Division Bench of this Court was faced with an identical situation where an extension was given as contemplated by Rule 17 (2) of the MEPS Rules and the Education Officer had granted its approval thereto and thereafter the same came to be cancelled. The Hon'ble Division Bench observed that the power of review is not inherent and the Education Officer could not have reviewed its earlier order, as it is not a power that can be conferred by the rules and there is no provision which is demonstrated to show the exercise of any such power of review. We are respectfully bound by the said decision.

9. There is no power of review which is vested in the Education Officer. Pertinently, it is not the Respondent No.4 who approached this Court assailing the approval which was granted by the Education Officer, but the Education Officer, who reviewed its own order without having any power of review.

10. In light of the above, the impugned order of the Education Officer cancelling its earlier approval is clearly unsustainable in law and is hereby quashed and set aside.

11. Resultantly, the Petition succeeds in terms of prayer clause (a)

which reads as under :

“(a) That this Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate writ, order or direction in the nature of writ, thereby quashing and setting aside the impugned communication dated 10/07/2026 (Exhibit I) and the impugned order dated 28/07/2026 (Exhibit K) issued by the Respondent No.3 Education Officer and further be pleased to restore the order dated 05/07/2026 (Exhibit H) issued by the Respondent No.3 Education Officer and grant all necessary consequential benefits thereto;”

[NEERAJ P. DHOTE, J.]

[SHARMILA U. DESHMUKH, J.]