

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

WRIT PETITION NO. 4583 OF 2022

Shri. Ramdas Ganpat Pawar,
Age: 41 Years, Occupation: Service,
R/o. A/P. Yedgaon, Taluka: Vaibhavawadi,
District: Sindhudurg.

.....Petitioner

Versus

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),
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, Sindhudurg,
Having Office at, Zilla Parishad
Building, Oras, Taluka: Kudal,
District: Sindhudurg,

6. Vaibhavawadi Taluka Shikshan Sanstha,
Mumbai, having office at
Arjun Ravrane Vidyalaya,
Vaibhavawadi, District: Sindhudurg,
Through its President/Secretary.
7. Arjun Ravrane Vidyalaya,
Vaibhavwadi, Tal. Vaibhavwadi,
District: Sindhudurg,
Through its Head Master. ...Respondents.

*Mr. Prashant Bhavake (Through VC), for the Petitioner.
Ms. Tejas J. Kapre, AGP for the Respondents-State.
Mr. Utkarsh Desai, for the Respondent Nos.6 & 7.*

**Coram : Sharmila U. Deshmukh &
Neeraj P. Dhote, JJ.**

**Reserved on : September 09, 2026.
Pronounced on : September 16, 2026.**

JUDGMENT : (Per Neeraj P. Dhote, J.)

1. By consent of both the sides, heard finally at the admission stage.
2. Impugned in this Writ Petition is the order dated 21st August 2018 passed by the Respondent No. 5-Education Officer rejecting the proposal for approval to the appointment of the Petitioner as the part-time Librarian in the Respondent No.7-School run by the Respondent No. 6-Management.
3. Following are the reasons for which the proposal is rejected by the impugned order is passed:
 - (a) No objection was not taken from the department before recruitment.

- (b) The advertisement was not published in the two newspapers having wide circulation.
- (c) The new staffing pattern for the non-teaching employees was not approved at the Government level.
- (d) There was no approval to the staffing pattern of the non-teaching staff for the year 2014-15.

4. It is submitted by learned counsel for the Petitioner that, the Petitioner was qualified as the Higher Secondary School Certificate (HSC) and completed the Library Training Center Course. The additional part-time post of Librarian was sanctioned with the Respondent No. 7-School in the approved Staff Schedule of the Academic Year 2013-14. The Respondent No. 6-Management approached the Respondent No. 5-Education Officer to ascertain the availability of suitable candidates for the post of part-time Librarian, however, no information was available in that regard. The Respondent No. 6-Management published the advertisement in the newspaper '*Prahaar*' for recruitment to the post of part-time Librarian. Pursuant to the said advertisement, the Petitioner applied and got selected and was appointed as the part-time Librarian on probation for three years with effect from 19th December 2013. The Headmaster of the Respondent No. 7-School submitted the proposal for approval of appointment of the Petitioner. As the same was not decided, Writ Petition No.4985 of 2016 was filed and this Court directed

the Respondent No.5-Education Officer to decide the proposal within the stipulated period. By the impugned order, the proposal is rejected by the Respondent No. 5-Education Officer.

5. It is further submitted by learned counsel for the Petitioner that, as it is nobody's case that there was any surplus part-time Librarian available at the time of appointment of the Petitioner, the ground No. 1 is not sustainable. The reliance on the Government Resolutions dated 23rd October 2013 and 12th February 2015 is not sustainable as the Government Resolution dated 12th February 2015 provides to maintain *status quo* in respect of Master Plan (*Akrutibandha*) of non-teaching staff approved by the Government Resolution dated 23rd October 2013 till receiving the report of the Committee constituted for modifying the Master Plan. The appointment of the Petitioner was prior to the issuance of the Government Resolution dated 12th February 2015, therefore, the impugned order was not sustainable.

6. It is further submitted by learned counsel for the Petitioner that, as regards the ground of no objection before initiating the recruitment process, the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (**'MEPS Act'**) and the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (**'MEPS Rules'**) framed thereunder nowhere provides for obtaining no objection from the Education Officer. As per Section 5 of the MEPS Act,

obligation is imposed upon the Management to ascertain whether any suitable person was available in the list maintained by the Education Officer and as there was no surplus part-time Librarian available, the said ground was unsustainable.

7. It is further submitted by learned counsel for the Petitioner that, as regards the publication of the advertisement in two largely circulated newspapers, there is no provision under the MEPS Act and MEPS Rules mandating the publication of advertisement in two newspapers. The appointment of the Petitioner was made as per the then existing Master Plan (*Akrutibandha*) and in the approved Staff Schedule for the Academic Year 2013-2014, the post of part-time Librarian was duly sanctioned. He submitted that the petition be allowed.

8. The learned counsel for the Petitioner placed reliance on the Judgments of this Court, which would be considered in the latter part of the Judgment.

9. It is submitted by learned AGP appearing for the Respondent Nos. 1 to 5 that, the advertisement was published in only one newspaper, which was not approved by the State as the 'widely circulated newspaper'. The recognition to the said newspaper as the 'widely circulated newspaper' was subsequent. It was necessary for the Management to seek the no objection from the Respondent No. 5- Education Officer before initiating the recruitment process, which was

not done. Though the Staff Schedule of the Academic Session 2013-14 shows one post of part-time Librarian, the new staffing pattern for the non-teaching staff was pending approval at the State level. She further submitted that the Respondent No. 5-Education Officer passed the impugned order in accordance with Rules and no interference is called for in the same.

10. It is submitted by learned counsel for Respondent Nos. 6 and 7 that, the appointment of the petitioner was made after following due process.

11. In the Judgment of Division Bench of this Court in the case of ***Prathamesh Nayan Mulye vs. The State of Maharashtra & Ors.***,¹ the challenge was to the order passed by the Education Officer refusing to grant approval to the appointment of the Petitioner on the post of Library Assistant. The order impugned therein was passed on the ground that, the Management did not obtain prior permission in terms of Government Resolution dated 6th February 2012, no advertisement was published in two newspapers in terms of Government Resolution dated 6th February 2012, there was backlog of reserved category and without filling the reserved post, the Petitioner was recruited from the open category. This Court observed that the objections/reasons No.1 and 2, i.e., no prior permission and no advertisement in two newspapers,

¹ Writ Petition No.991 of 2024 Dtd. 29th November 2024.

would be at the most an irregularity attributable to the Management, which could be condoned by imposing cost of Rs. 50,000/- payable by the Management and the said irregularity would not vitiate the selection process. The petition was allowed and the order impugned therein was set aside.

12. In the Judgment of Division Bench of this Court in the case of ***Vikas Shikshan Mandal & Ors. v. The State of Maharashtra & Ors.***,² the order impugned was refusal to grant approval to the appointment of the Petitioner therein on the post of Peon on the grounds of non-submission of certain documents, effect of ban imposed by the State Government for certain period, non-compliance of formal procedure and applicability of staffing pattern sought to be introduced by Government Resolution dated 20th November 2013. This Court framed the following points for consideration:

- (i) *Whether ban imposed by the Government Resolution post subject-matter appointments would invalidate the approval proposal?*
- (ii) *Whether in the peculiar circumstances if education officer merely sits on the application, an appointment if made by following the requisite procedure and without any element of fraud, misrepresentation of facts, or manipulation of record, would be vitiated for want of No Objection from the Education Officer?*
- (iii) *Changes in the staffing patterns in the private schools, effects of the Government Resolution dated 23.10.2013, 12.02.2015, 28.01.2019,*

² Writ Petition No.6812 of 2024 Dtd. 2nd February 2026.

and 12.12.2020, and fate of the appointments made during the transition of the policies on staffing patterns.

13. This Court considered the Government Resolution dated 6th February 2012. This Court further observed that the Government Resolution of 2015 kept Government Resolution of 2013 in abeyance *ab initio*. This Court observed that, holding that the policy of 2013 Government Resolution remained in force since its inception till issuance of 2019 and 2020 policies or at least till issuance of the Government Resolution of 2015, would be absolutely illogical. This Court rejected the objection recorded by the Education Officer that Government Resolution of 2013 disqualifies the proposal for approval to the appointment, which was made in August 2014. The said writ petition was allowed.

14. The Government Resolution dated 10th June 2022, the copy of which is tendered across the Bar by the learned Advocate for the Petitioner, shows that the newspaper '*Prahar*' in the Sindhudurg District was recognized as the 'newspaper having wide circulation'.

15. Coming to the case at hand, the Ground No.1 is that no prior permission of the Department was taken before the recruitment. It is the specific contention of the Petitioner that the Management had approached the office of Respondent No.5-Education Officer to ascertain whether any suitable candidate was available for the post of

part-time librarian, however, information in respect of the same was not available with the office of Respondent No.5-Education Officer. It is further categorically stated that, the Respondent No.6-Management submitted the application to the office of Respondent No.5-Education Officer seeking permission for publishing the advertisement in the newspaper, however, there was no response to the same. There is no counter by the Respondents to the said categorical averment of the Petitioner. Thus, the said averment of Petitioner went unchallenged. The learned Counsel for the Petitioner has rightly placed reliance on the provisions of Section 5(1) of the MEPS Act, which requires the educational institution/management to fill up the vacant post as early as possible. Thus, the Ground/Reason No.1 in the impugned order falls down.

16. The papers clearly shows that, the advertisement for the post of part-time librarian was published by the Respondent No.6-Management in the daily newspaper '*Prahar*'. The aforesaid Government Resolution dated 10th June 2022 shows the name of the said newspaper '*Prahar*' as the 'widely circulated newspaper'. True it is that, the advertisement in the said newspaper '*Prahar*' was published in the year 2013 and the recognition as the 'widely circulated newspaper' is in the year 2022. It is not that the recognition to the newspaper is given suddenly on the basis of the circulation during a short period. The recognition by the said

Government Resolution to the said newspaper clearly goes to show that, only because the said newspaper was having wide circulation, the same was given recognition. We find merit in the submission by learned Counsel for the Petitioner that there is no requirement under the law to publish the advertisement in two newspapers, having wide circulation. The Respondent No.6-Management has rightly published the advertisement in one newspaper, having wide circulation as mandated under the MEPS Act. Therefore, the said Ground/Reason No. 2 has no legs to stand.

17. As regards the Ground/Reason Nos.3 and 4 are concerned, the same appears *ex facie* unsustainable for the reason that Exhibit 'B' (Page No.27 of the petition), which is the copy of the Staff Schedule of the Respondent No.7-School for the Academic Session 2013-14 clearly shows one post for the part-time librarian on aided basis. The same is issued by the Respondent No.5-Education Officer. This being the undisputed aspect of the matter, the Grounds Nos.3 and 4 mentioned in the impugned order would be clearly unsustainable.

18. This Court in the aforesaid decision of ***Vikas Shikshan Mandal*** (*supra*) considered the Government Resolutions dated 23rd October 2013 and 12th February 2015 referred in the impugned order and, therefore, the reliance on the said Government Resolutions by the

Respondent No.5-Education Officer for refusing the proposal cannot be sustained.

19. In the light of the above discussion, the Petition is liable to be allowed. Hence, the following order:

ORDER

- i) The impugned order dated 21st August 2018 passed by the Respondent No.5-Education Officer is quashed and set aside.
- ii) The Respondent No.5-Education Officer to grant individual approval to the appointment of the Petitioner in the post of part-time librarian in the Respondent No.7-School from 19th December 2013 and grant all the consequential benefits within a period of six (6) weeks from today.
- iii) The Writ Petition stands disposed of.

[Neeraj P. Dhote, J.]

[Sharmila U. Deshmukh, J.]

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signed by
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GAIKWAD
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