

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9242 OF 2025

- | | | |
|--|---|-------------------------------|
| 1) Sachin Kisan Khandekar |] | |
| Aged 21 Yrs. Occ. Service, R/o. Lingivare, |] | |
| Tal. Atpadi, Dist. Sangli |] | |
| 2) Dhuldev Shikshan Prasarak Mandal, |] | |
| Lingivare, Tal. Atpadi, Dist. Sangli, |] | |
| Through its President/Secretary. |] | |
| |] | <u>...Petitioners.</u> |

Versus

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|---|---|-------------------------------|
| 1) The State of Maharashtra, |] | |
| Through the Secretary, School Education |] | |
| Department, Mantralaya, Mumbai – 400 |] | |
| 032. |] | |
| 2) The Principal Secretary, General |] | <u>...Respondents.</u> |
| Administration Department Government |] | |
| of Maharashtra, Mantralaya, Mumbai – |] | |
| 400 032. |] | |
| 3) The Deputy Director of Education, |] | |
| Kolhapur Region, Kolhapur. |] | |
| 4) The Education Officer [Secondary], Zilla |] | |
| Parishad, Sangli. |] | |

Mr. Sagar Mane a/w Mr. Rushikesh Jagdale for the Petitioners.
Mr. A. A. Naik, AGP for the Respondent-State.

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

Date : December 9, 2025.

ORAL JUDGMENT: (PER: M. S. KARNIK, J.)

1. Petitioner No. 1 is an employee serving as a *Peon* with Petitioner No. 2-Management. The Petitioners are challenging the order passed by Respondent No. 4-the Education Officer (Secondary), Zilla Parishad, Sangli, whereby approval to the compassionate appointment of Petitioner No. 1 in the post of Peon has been refused.
2. The brief facts are that the Petitioner No. 2-Management runs a Government-recognized fully aided Secondary School. The father of Petitioner No. 1 was appointed as a Peon in the said school on 14th June 1999, and his appointment was duly approved by Respondent No. 4 vide order dated 28th March 2001. The father of Petitioner No. 1 died on 28th December 2014 while in service. Petitioner No. 1, being his son, is the legal representative.
3. On 4th December 2023, after Petitioner No. 1, being the eldest son attained majority, he submitted an application to the Management seeking appointment on compassionate grounds. The Management forwarded the said application to Respondent No. 4 by letter dated 19th December 2023 for necessary action. However, no response was received from Respondent No. 4. Consequently, Petitioner No. 2

appointed Petitioner No. 1 to the vacant post of Peon on compassionate basis for a period of three years on a monthly honorarium.

4. The Management sought approval from Respondent No. 4 for the compassionate appointment on 26th December 2024. However, by the impugned order dated 3rd June 2025, the proposal was rejected on the ground that the Government Resolution dated 21st September 2017 expressly prohibits compassionate appointments for employees who have three children. It is observed in the order that the Petitioner's father, who died on 28th December 2014, was survived by his wife, two sons, and one daughter.

5. Learned AGP drew our attention to the Maharashtra Civil Services (Declaration of Small Family) Rules, 2005 (hereinafter "**Rules of 2005**"). It is submitted that in view of the provisions of these Rules, the Petitioner is not eligible for compassionate appointment, as the Petitioner's father was survived by three children and therefore does not fall within the definition of a "Small Family" under the said Rules. Further, it is submitted that the relevant Government Resolution does not permit approval to such an appointment on compassionate basis, as the Petitioner's case does not satisfy the requirements of the Small Family criteria.

6. The submissions need not retain as much. We find that the present controversy is squarely covered by the decision of this Court (Nagpur Bench) dated 19th November 2015 in **Smt. Chhaya Deepak Chahare vs. Director of Education, Pune & Ors.**, Writ Petition No. 1841 of 2015. The relevant observations are as follows:

"On hearing the learned Counsel for the parties, we find that the Deputy Director was not justified in rejecting the proposal for appointment of the petitioner on compassionate ground. The government Resolution clearly refers to the appointments in the government service, on compassionate ground. The Government Resolution dated 28th March, 2001 clearly states that it would be applicable in case of government servants, who expire while in service. Admittedly, the husband of the petitioner was not a government servant but was working in the respondent No. 4-College, which is receiving grant-in-aid from the State Government. There is nothing in the Government Resolution that shows that the same is applicable to the institutions that are brought on grant-in-aid by the State Government. In the circumstances of the case, the rejection of the proposal of the petitioner on the aforesaid ground, was not proper."

7. The Petitioner's case is squarely covered by the aforesaid decision. No contrary view has been brought to our notice. Learned Counsel for the Petitioner invited our attention to information obtained under the Right to Information Act, 2005, which is at page no. 82 of the paperbook. By a communication dated 7th June 2021, the Public Information Officer, State of Maharashtra, informed that as of 7th June 2021, the provisions of the Rules of 2005 are not applicable to employees of schools receiving grant-in-aid.

8. In view of the above, the impugned order dated 3rd June 2025 deserves to be quashed and set aside.

9. Accordingly, the Writ Petition is allowed in terms of prayer clauses (b) and (c), which read as follows:

***“b]** By a suitable writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the impugned order dated 3.6.2025 issued by the Respondent No. 4, and accordingly the Respondent No. 4 may be directed to grant approval to the compassionate appointment of the Petitioner No. 1 on the post of Peon in the aided Secondary School of the Petitioner No. 2 Management with effect from 2.12.2024 and to release the grant-in-aid for payment of monthly honorarium to the Petitioner No. 1 for a period of 3 years from the aforesaid date of appointment, with all consequential benefits.*

***c]** By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 3 to grant permission to include the name of the Petitioner No. 1 in Shalartha Pranali and to allot him the Shalartha I.D. as a Peon with effect from 2.12.2024 in the aided Secondary School of the Petitioner No. 2 Management, with all consequential benefits.”*

10. No order as to costs.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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ASHOKRAO

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