IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION/ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.5456 OF 2025
WRIT PETITION (STAMP) NO.15761 OF 2025
WRIT PETITION NO.6028 OF 2025
WRIT PETITION (STAMP) NO.15782 OF 2025
WRIT PETITION NO.7548 OF 2025
WRIT PETITION NO.7552 OF 2025
WRIT PETITION NO.8239 OF 2025
WRIT PETITION NO.8753 OF 2025
WRIT PETITION NO.8754 OF 2025
WRIT PETITION NO.8946 OF 2025
WRIT PETITION NO.9276 OF 2025
WRIT PETITION NO.9977 OF 2025
WRIT PETITION NO.10213 OF 2025
WRIT PETITION NO.10432 OF 2025
WRIT PETITION NO.10433 OF 2025
WRIT PETITION NO.10470 OF 2025
WRIT PETITION NO.10497 OF 2025
WRIT PETITION (STAMP) NO.24468 OF 2025
OOCJ WRIT PETITION (LODGING) NO.17362 OF 2025

PRAVIN DASHARATH PANDIT
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Date: 2025.11.17 18:01:19 +0530

The Maharashtra Rajya Padvidhar Prathamik Shikshak Va Kendrapramukh Sabha and Ors. .. Petitioners
Ranvadi Budruk Zilla Parishad Primary School & Ors. .. Petitioners
Rajendra Ramchandra Chandiwade and Ors. .. Petitioners
The Hind Education Society, Miraj and Ors. .. Petitioners
Bhivaji Lakshman Patil and Ors. .. Petitioners
Dattatray Baburao Bhosale and Ors. .. Petitioners
Sanjay Jagannath Shende and Ors. .. Petitioners
The Maharashtra Rajya Prathamik Shikshan Sangh & Ors. .. Petitioners
Maharashtra Rajya Prathamik Shikshan Pati Patni Seva Sangh and Ors. .. Petitioners
Ujjwala Sunil Shingare and Ors. .. Petitioners
Sanjay Dinkar Tembhe and Ors. .. Petitioners
Santosh Pilaji Sabale and Ors. .. Petitioners

Sunil Vitthal Phand and Ors. .. Petitioners
Pradip Sadashiv Mahamuni .. Petitioner
Ratnakar Ramchandra Sarvankar and Ors. .. Petitioners
Ajay Mahadev Garate and Ors. .. Petitioners
Neelam Siddharth Hirway and Ors. .. Petitioners
Vikas Ramesh Shelar and Ors. .. Petitioners
The Shikshanmandal, Goregaon .. Petitioner

Versus

The State of Maharashtra,
Through School Education & Sports Department and Ors. .. Respondents

ALONG WITH
WRIT PETITION (STAMP) NO.13145 OF 2025
WRIT PETITION NO.5759 OF 2025
WRIT PETITION NO.6213 OF 2025
WRIT PETITION (STAMP) NO.16603 OF 2025
WRIT PETITION NO.10321 OF 2025

Shashank Gunaji Atak and Ors. .. Petitioners
Dilip Ramchandra Mahadik and Ors. .. Petitioners
Rajaram Baburao Kavitkar and Ors. .. Petitioners
Maharashtra Rajya Graduate Primary Teachers
and Kendra Pramukh Association .. Petitioners
Vinayak Lahu Magdum and Ors. .. Petitioners

Versus

Union of India,
Through Education Department and Ors. .. Respondents

ALONG WITH
INTERIM APPLICATION (ST) NO.21996 OF 2025 IN WRIT PETITION NO.5456 OF 2025
INTERIM APPLICATION (ST) NO. 20158 OF 2025 IN WRIT PETITION NO.5460 OF 2025
INTERIM APPLICATION NO.10267 OF 2025 IN WRIT PETITION NO. 8754 OF 2025
INTERIM APPLICATION NO.25647 OF 2025 IN WRIT PETITION NO.5456 OF 2025
INTERIM APPLICATION NO.24313 OF 2025 IN WRIT PETITION NO.6213 OF 2025
CONTEMPT PETITION NO. 412 OF 2025 IN WRIT PETITION (ST) NO.13145 OF 2025

Dnyaneshwar Balasaheb Sonawane .. Applicant
Santosh Tukaram Ambale and Ors. .. Applicants
Maharashtra Rajya Prathamik Shikshan Pati Patni

Seva Sangh and Ors. .. Applicants
Shashank Gunaji Atak and Ors. .. Petitioners

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CORAM : SHREE CHANDRASHEKHAR, CJ. & MANJUSHA DESHPANDE, J.

Judgment Reserved on : 14th AUGUST 2025

Judgment Pronounced on : 14th NOVEMBER 2025

PER, SHREE CHANDRASHEKHAR, CJ :-

This batch of writ petitions, interim applications and contempt petition were listed for hearing on different dates. Mr. S. S. Pakale, Mr. N. V. Bandiwadekar, Mr. Sanjeev P. Kadam and Mr. Girish Godbole, the learned senior counsels made elaborate arguments and their submissions have been recorded by the Court in the order-sheets drawn between 30th July 2025 to 14th August 2025. The learned counsels appearing in the writ petitions vide Writ Petition No.8239 of 2025 (filed by twelve primary teachers); Writ Petition No.8753 of 2024 (filed by the Maharashtra Rajya Prathamik Shikshak Sangh with three Headmasters); Writ Petition No.9977 of 2025 (filed by nineteen primary teachers); Writ Petition No.10213 of 2025 (filed by twenty-six primary teachers, graduate teachers and Headmasters); Writ Petition No.10497 of 2025 (filed by four primary teachers); Writ Petition (ST) No.16603 of 2025 [filed by the Maharashtra Rajya Graduate Primary Teachers and Kendra Pramukh (Cluster head) Association]; Writ Petition No.10321 of 2025 (filed by sixteen assistant teachers and a primary teacher); Writ Petition No.13145 of 2025 (filed by one hundred ninety-three graduate and under graduate teachers); Writ Petition No.5759 of 2025 (filed by three hundred seventy-one graduate teachers); Writ Petition No.10470 of 2025 (filed by fifteen graduate teachers) and Writ Petition No.6213 of 2025 (filed by one hundred twenty-two graduate teachers) adopted the arguments made by Mr. S. S. Pakale, the learned senior counsel and no other

submission was made in these writ petitions as regards the other prayers made by them.

2. Mr. Ashwin R. Kapadnis, the learned counsel appearing for the petitioners in Writ Petition (ST) No.13145 of 2025, Writ Petition Nos.5759 of 2025 and 10321 of 2025 adopted the arguments advanced by Mr. S. S. Pakale, the learned senior counsel and relied on the judgments in *"Rajneesh Kumar Pandey*[1]*"* and *"Avinash Mehrotra"*[2]. In Writ Petition Nos. 6028 of 2025 and 10470 of 2025, the primary challenge is to the G.R.-2024 and similar arguments are raised to challenge the said G.R. Ms. Preeti Walimbe, the learned counsel who appeared in Writ Petition No.9276 of 2025 which relates to intra-district transfer process and the learned counsels appearing in Writ Petition No.8754 of 2025 and Writ Petition (ST) No. 24468 of 2025 and the interim applications vide Inerim Application (ST) Nos. 21996 of 2025, 20158 of 2025 and the Interim Application Nos.10267 of 2025, 24313 of 2025 and 25647 of 2025 made their respective submissions emphasizing a need for taking a humanitarian approach while effecting trasnfer of the teachers. Contempt Petition No.412 of 2025 has been filed alleging wilful and intentional disobedience of the interim order passed by this Court on 6th May 2025 in Writ Petition No.16368 of 2024. This Contempt Petition has been filed by thirty-nine primary teachers who are seeking a direction to the respondent-Authorities to follow the old staffing pattern for the intra-district transfer of teachers.

WRIT PETITION NOS.5456 OF 2025, 6028 OF 2025 and 10470 OF 2025:

3. Writ Petition No. 5456 of 2025 has been filed by the Maharashtra Rajya Padvidhar Prathamik Shikshak Va Kendrapramukh Sabha through its Chairman, namely, Girish Vijaykumar Jadhav and twenty-nine graduate

1. *Rajneesh Kumar Pandey & Ors. v. Union of India & Ors.:* (2021) 17 SCC 1
2. *Avinash Mehrotra v. Union of India & Ors.* (2009) 6 SCC 398.

teachers who are employed in upper primary schools under the Solapur Zilla Parishad. These petitioners seek to challenge the transfer and posting exercise undertaken by the Solapur Zilla Parishad as a consequence of which the petitioner nos.2 to 30 may be reverted to the post of assistant teacher in different schools. According to the petitioners, the proposed transfer and posting exercise undertaken by the Solapur Zilla Parishad would violate their statutory rights under the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 and shall be in contravention of their rights guaranteed under Articles 14, 16 and 21 of the Constitution of India. The petitioners state that the respondent no.7 which is a private limited company cannot be delegated the core functions of the Zilla Parishad and there is no provision in the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 for delegation of powers to the respondent no.7. The petitioner no.1 is an association of a large number of teaching and non-teaching employees and registered under the Maharashtra Public Trusts Act, 1950. The petitioner nos.2 to 30 were appointed as assistant teachers and have been granted promotion as the graduate/subject teachers. The petitioners claim that the petitioner nos.2 to 30 were promoted to the post of graduate teacher following the due process and are enjoying such a status for the last 10 to 20 years. According to the petitioners, one graduate teacher is appointed in every primary school and given higher pay scale. These teachers were appointed in the subject in which they had acquired graduation degree. While promoting them no preference or priority was given and they were promoted strictly on the basis of their seniority in the cadre of assistant teachers. The petitioners state that the service conditions of the teaching and non-teaching staff employed in the primary school cannot be prescribed under the Right of the Children for Free and Compulsory Education Act, 2009 (in short, “RTE Act”) and it was under the Government Resolution (in short, G.R.) dated 13th December 2013 under which the respondent-Authorities are empowered to decide and determine

the requirement of graduate teachers in the upper primary schools. At least one teacher for (i) Science and Mathematics, (ii) Social Studies and (iii) Language shall be provided for each class. The petitioners further state that there were at least three G.Rs. issued in the past on 28th August 2015, 8th January 2016 and 13th October 2016 which were issued on a complete misreading and misunderstanding of the provisions under the RTE Act. The petitioners have endeavoured to criticise the circular dated 24th January 2017 for preparation of the seniority of the graduate teachers and also the circular dated 7th February 2019. Their grievance is that the respondent-Zilla Parishad has undertaken an exercise to shortlist the teachers who possess graduation degree and have passed 12th standard with Science subject can be appointed as graduate teachers for Class VIth to Class VIIIth. The petitioners further state that clause 6 under the circular dated 13th October 2016 was withdrawn by the respondent-Authority by issuing another circular on 23rd June 2023. While the cases are pending in this Court, such as, Writ Petition Nos.9912 of 2022, 12016 of 2022, 5468 of 2023 and 8648 of 2024, the G.R. dated 15th March 2024 (in short, "G.R.-2024") has been issued by the Government of Maharashtra. The petitioners further state that there are three hundred ninety-six graduate teachers (Social Studies) who were appointed under the Solapur Zilla Parishad by following the due process of law. However, the respondent-Zilla Parishad has undertaken an exercise under the G.R.-2024 for transfer and posting of teachers which would render one hundred and fifty-six graduate teachers as surplus and their services would be transferred to such schools where the post of graduate teacher is not available. The petitioners have referred to a list of teachers notified on 11th April 2025 who are to be transferred and posted in some other schools and the petitioner nos.2 to 30, except the petitioner no.17, are proposed to be transferred. In paragraph no.38 of this writ petition, the petitioners state that entire exercise of transfer and posting of the teachers was activated by the respondent-Zilla Parishad

through the letters dated 7th November 2024, 21st February 2025, 27th February 2025, 10th March 2025, 24th March 2025 and 28th March 2025.

4. In the aforesaid background, the petitioners have made the following prayers:-

> *"(a) this Hon'ble Court be pleased to exercise the jurisdiction vested in it under Article 226 of the Constitution of India and issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, and call for papers and proceeding from the custody of the Respondent Nos. 5 and 6 in respect of the impugned action of showing them surplus as graduate teachers as set out in Exhibit S and then to notify their names vide final list dated 11th April 2025 (Exhibit U) for transferring their services under random round in the schools where the post of graduate teacher is not available (class I-V).*
>
> *(b) this Hon'ble Court be pleased to exercise the jurisdiction vested in it under Article 226 of the Constitution of India and issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, and call for the papers and proceeding from the custody of the Respondents and after examining the legality, validity and propriety to quash and set aside the GR dated 15th March 2024 (Exhibit R) being ultra-vires to the provisions of Section 25 read with Schedule of the RIE Act, 2009.*
>
> *(c) this Hon'ble Court be pleased to exercise powers vested in it under Article 226 of the Constitution of Indian and issue a writ of Mandamus and/or Writ in the nature of Mandamus, Order and direction directing, Respondent Nos. 5 and 6 not to take any action on the basis of final list published on 11th April 2025 (Exhibit U) to the extent of Petitioners and not to transfer their services in a schools where the post of graduate teacher is not available/sanction (class I-V).*
>
> *(d) this Hon'ble Court be pleased to exercise powers vested in it under Article 226 of the Constitution of Indian and issue a writ of Mandamus and/or Writ in the nature of Mandamus, Order and direction directing Respondent Nos. 5 and 6 to restrain Respondent No. 7 from carrying out any activities relating to the GR dated 18th June 2024 and/or participating in the process of transferring the teachers in Respondent Zilla Parishad as per GR dated 18th June 2024.*
>
> *(e) pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to restrain Respondent Nos. 5 and 6 from disturbing and/or altering the Petitioners services in any manner and they be allowed to stay in the school where they are presently posted.*
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> *(f) pending the hearing and final disposal of this Petition, this Hon'ble Court be pleased to stay the effect, implementation, execution and*

operation of the impugned final list dated 11th April 2025 (Exhibit U) to the extent of the Petitioners and further Respondent Nos. 5 to 7 be restrain from forcing the Petitioners to participate in the transfer process.

(g) Ad-interim or interim relief in terms of the prayer clauses (d) and (e) above;

(h) Costs of the Petition may be provided for the Petitioners."

5. Mr. S. S. Pakale, the learned senior counsel appearing for the graduate teachers employed under various schools set-up and administered by the Zilla Parishads submitted that the G.R.s dated 15th March 2024 and 23rd September 2024 contravene the mandatory provisions under the RTE Act and the modalities provided under the Schedule appended therewith. It is submitted that the Zilla Parishad has no authority to determine and decide on the requirement of teacher in elementary schools as the same has been provided under the Schedule to the RTE Act. The Zilla Parishad has also no authority to decide whether the school shall continue or close down because such decision impinges upon the right of the children for free and compulsory education. The government has no authority to appoint a teacher on contract basis on the post occupied by permanent teachers who may be declared surplus by carrying out exercise under the G.R.-2024. By doing so, the State shall be violating the rights of children and deprive them of free and compulsory education, particularly, who are residing in tribal, hilly and remote areas and belong to weaker sections and disadvantaged group. Mr. S. S. Pakale, the learned senior counsel submitted that for sanctioning the total number of teachers for Class VIth to Class VIIIth, the relevant consideration should be the total number of classes and not the number of students. It is submitted that the norms and standards for Class VIth to Class VIIIth provide that there should be at least one teacher for every class and at least one teacher each for (i) Science/Mathematics; (ii) Social Studies and (iii) Language. However, the G.R.-2024 misconstrues the requirement of teachers for Class VIth to Class VIIIth and reduces the number of teachers to the detriment of the interest of students. According to the

learned senior counsel, this is a mandatory requirement under the RTE Act that the appropriate government and local bodies provide qualified and trained teachers to maintain the Pupil-Teacher ratio and provide quality infrastructure. Notwithstanding such constitutional mandate, the action taken under the G.R.-2024 is likely to remove 20,000 or more primary teachers by declaring them surplus.

6. The learned senior counsel referred to the G.R. dated 18th June 2024 and submitted that the process for transfer of teachers has been undertaken ignoring the policy of the government to complete the transfer process on or before 31st May 2025. It is submitted that the G.R. dated 16th April 2025 has been issued to bring in certain changes in the syllabus and to adopt CBSE pattern and in connection therewith a direction has been issued to all the Zilla Parishads and local bodies to upgrade the skill and expertise of the teaching staff through training and such training sessions have already commenced from June 2025. The anxiety of the teachers is that if the transfer exercise continues and they are transferred in the midst of the academic year then serious prejudice and inconvenience would be caused to them and to all stakeholders inasmuch as their families and social lives shall be adversely affected. It is further submitted that the Maharashtra Zilla Parishads and Panchayat Samitis Act, 1961 does not make a room for delegation of core activities of Zilla Parishad to a private limited company. The Zilla Parishads have managed and administered their core activities for more than 60 years and 7th respondent does not possess enough expertise, proficiency or experience to carry out the core functions of the Zilla Parishads. There is no indication how competence of 7th respondent was assessed and no mechanism has been provided to supervise and control its activities. The appointment of the respondent no.7 is beyond the purview of the RTE Act and such an agency which is not

an autonomous body or under the control of the government cannot be introduced to carry out the basic functions of the appropriate government.

WRIT PETITION (ST) NOs. 15761 OF 2025 and 15782 OF 2025:

7. In Writ Petition (ST) No.15761 of 2025, the President of the school's Management Committee and the Headmaster of Raigad Zilla Parishad Primary School are the petitioners. In Writ Petition (ST) No. 15782 of 2025, the President of the Hind Education Society and the Headmasters of R. M. High School and the New English School run by the Hind Education Society are the petitioners. In both the writ petitions, the petitioners have raised similar grounds and the prayers made therein are identical. For the sake of convenience, the prayers made in Writ Petition (ST) No.15761 of 2025 are reproduced herein below:-

"a] Rule Nisi be issued and records and proceedings be called for.

b] By a suitable writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the impugned Government Resolution dated 15.3.2024 issued by the Respondent No. 1, in relation to the norms prescribed in Clause 3 for sanction of the posts of Graduate Teachers to Class of Std. 6 to 8, whereby it is provided that the upper Primary School having all the 3 divisions of Std. 6 to 8 should have minimum 60 students for being eligible to be sanctioned 3 posts of teachers, and accordingly the Respondents be directed to sanction 3 posts of Graduate Teachers to the Classes of Std. 6 to 8, as per the norms prescribed in the Schedule appended to the Right of Children to Free and Compulsory Education Act, 2009, in all the Primary Schools of Respondent No. 4, including the Primary School i.e. Ranvadi Budruk Zilla Parishad Primary School, At Ranvadi Bk, Tal. Poladpur, Dist. Raigad.

c] By a suitable writ, order or direction, this Hon'ble court may be pleased to restrain the Respondent No. 5 from issuing the final order of Sanch Manyata of the year 2024-2025 in respect o the Ranvadi Budruk Zilla Parishad Primary School, At Ranvadi Bk, Tal. Poladpur, Dist. Raigad & All other Primary Schools of Respondent No. 4, regarding sanction of the posts of Graduate Teachers for Std. 6 to 8, without sanctioning 3 posts of Graduate Teahers for the said Classes of Std. 6 to 8.

d] By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 5 to sanction 3 posts of Graduate Teachers for Classes of Std. 6 to 8 to the Ranvadi Budruk Zilla Parishad Primary School, At Ranvadi Bk, Tal. Poladpur, Dist. Raigar and all the Primary Schools of Respondent No. 4, with all consequential service benefits in A. Y. 2024-2025.

e] Pending the hearing and final disposal of this Writ Petition, the Respondent No. 5 may be restrained from finalizing the Sanch Manyata of the Ranvadi Budruk Zilla Parishad Primary School, At Ranvadi Bk, Tal. Poladpur, Dist. Raigad and all Primary Schools of Respondent no.4 for the Academic Year 2024-2025 on the basis of the Draft Order of Sanch Manyata dated 11.3.2025 issued by the Respondent No. 5.

f] Pending the hearing and final disposal of this Writ Petition, the Respondents be restrained from declaring any of the Graduate Teacher working for Std. 6 to 8 as surplus in the said Ranvadi Budruk Zilla Parishad Primary School, At Ranvadi Bk, Tal. Poladpur, Dist. Raigad and other Primary Schools of Respondent No.4. and therefore, liable to be absorbed in some other Primary Schools, and hence the teachers presently working in Std. 6 to 8 of the said Primary Schools be continued in service in the same schools with all & consequential benefits.

g] Cost of this petition be provided for.

h] Any other order in the interest of justice and kindness be passed as and when necessary."

8. In Writ Petition (ST) No. 15782 of 2025, the petitioners state that the Hind Education Society is registered under the Maharashtra Public Trusts Act, 1950 and the Societies Registration Act, 1860 and it runs several schools including the R. M. High School at Miraj and the New English School at Soni, Taluka Miraj. The petitioners have stated that both the schools receive 100% grant-in-aid and the services of the teaching and non-teaching staff are governed under the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (in short, "MEPS Act") and the Rules made thereunder in the year 1981. According to the petitioners, 5th respondent-Education Officer (Secondary) issued Sanch Manyata for the R. M. High School at Miraj on 16th April 2025 for the year 2024-2025 taking total number of students at 58 for Class IXth and Class Xth but only one graduate teacher for Class IXth and Class Xth has been sanctioned. Whereas, one post of graduate teachers was sanctioned for the academic year 2023-2024 by 5th respondent. Similarly, the number of total teachers in the New English School at Soni has been drastically reduced and no teacher for Class IXth and/or Class Xth has been sanctioned by 5th respondent. According to the petitioners, the number of students in

Class IXth and Class Xth should have been combined and treated as one unit for sanction of the posts of graduate teachers in the said school.

9. In Writ Petition (ST) No. 15761 of 2025, the petitioners refer to clause 2.2.2 of the G.R. dated 28th August 2015 whereunder it was prescribed that three teachers, one each for Science/Mathematics, Language and Social Studies shall be provided in each upper primary school where the combined strength of students is 30 or more for Class VIth to Class VIIIth. In the Raigad Zilla Parishad Primary School, the total number of students is less than 60 and this upper primary school shall have no teacher allocated for Class VIth to Class VIIIth. The petitioner no. 2 and Ganesh Prakashrao Munde are the graduate teachers who were appointed as Shikshan Sevak in the Raigad Zilla Parishad Primary School on 12th March 2024. According to the petitioners, the draft order of Sanch Manyata issued on 11th April 2024 for the academic year 2024-2025 for their school sanctioned only one post of graduate teacher for Class VIth to Class VIIIth. The learned Additional Government Pleader submitted that this writ petition has been filed at the behest of the aforementioned two teachers who claim that they were appointed as Shikshan Sevak in the said school.

10. Mr. N. V. Bandiwadekar, the learned senior counsel for the petitioners in both these writ petitions submitted that the Sanch Manyata (Staffing Pattern) for the academic year 2024-2025 finalized by the Education Officer (Primary/Secondary) is contrary to the minimum number of teachers prescribed in the Schedule to the RTE Act for Class VIth to Class VIIIth. The learned senior counsel contended that the provisions under the RTE Act cannot be amended or diluted or substituted through the executive instructions issued under Article 162 of the Constitution of India. In sum and substance, what is contended on behalf of the petitioners is that the teachers' strength for Class VIth to Class VIIIth is required to be fixed by taking total number of students in all three classes combined together as

one unit. Whereas, clause 3 of the G.R.-2024 provides that three graduate teachers shall be provided in the primary schools having three divisions of Class VIth to Class VIIIth and the students' number is between 60 and 105.

WRIT PETITION (L) NO.17362 OF 2025:

11. This writ petition has been filed by the Shikshan Mandal, Goregaon which is a society registered under the Societies Registration Act, 1860 and the Maharashtra Public Trusts Act, 1950 as well. Mr. Prakash K. Samant who is the Secretary of this Society is the petitioner no.2. The following prayers are made in this writ petition :-

"(a) this Hon'ble Court be pleased to issue appropriate writ of certiorari or in the nature of certiorari thereby quashing and setting aside the Staff Approval orders dated 31.07.2024 and 25.04.2025 passed by Respondent No.3 in respect of the said school i.e. A. B. Goregaonkar English School (Exhibits-"B" and "B-1" hereto respectively);

(b) this Hon'ble Court be pleased to issue appropriate writ of certiorari or in the nature of certiorari thereby quashing and setting aside the Government Resolutions issued by the Government of Maharashtra, Respondent No.1 herein namely (i) Government Resolution dated 15.03.2024 issued by Respondent No.1 (Exhibit-"F" hereto) to the extent mentioned above at pages 65-66 of the Petition, (ii) Government Resolution dated 08.01.2016 issued by Respondent no.1 (Exhibit-"E" hereto) to the extent mentioned hereinabove at pages 65-66 of the Petition, (iii) Government Resolution dated 28.08.2015 issued by Respondent No.1 (Exhibit-"D" hereto) to the extent mentioned hereinabove at pages 65-66 of the Petition and (iv) Government Resolution dated 13.12.2013 issued by Respondent No.1 (Exhibit-"C" hereto) to the extent mentioned hereinabove at pages 65-66 of the Petition and ;

(c) this Hon'ble Court be pleased to issue appropriate writ of mandamus or in the nature of mandamus directing the Respondent No.3 to determine the teachers' strength and supervisors strength of the said school i.e. A. B. Goregaonkar English School for the academic year 2025-26 and thereafter on the conjoint reading of Schedule to RTE Act and provisions of MEPS Act and MEPS Rules and School Code and the orders issued by Respondent No.1 prior to GR 2013, subject to the minimum prescribed by Schedule to the RTE Act;

(d) this Hon'ble Court be pleased to issue appropriate writ of mandamus or in the nature of mandamus directing the Respondent No.3 to sanction post of three instructors for (i) art education, (ii) health and physical education and (iii) work education for Standard VI to Standard VIII, for Academic Year

2025-26 and thereafter, in compliance with Entry 1(b)(3) of the Schedule of the RTE Act.

(e) this Hon'ble Court be pleased to declare that the requirement of providing one class room per teacher, as per Sr. No.2(i) of the Schedule to the RTE Act applies in respect of such number of the teachers appointed in view of the Sr. No.1 of the Schedule to RTE Act and to this extent, read down entry at Sr. No.2(i) of the Schedule to the RTE Act.

(f) This Hon'ble Court be pleased to declare that retired teachers, ought not to be appointed in any school and Rule 17 of MEPS Rules, be directed to be complied with by Respondent No.1 to 3.

(g) pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court be pleased to stay the operation and implementation of Order dated 31.07.2024 and 25.04.2025 passed by Respondent No.3 in respect of the said school i.e. A. B. Goregaonkar English School (Exhibits-"B" and "B-1" hereto respectively);

(h) pending the hearing and final disposal of the present Writ Petition, this Hon'ble Court be pleased to stay the operation and implementation of Government Resolutions issued by the Government of Maharashtra, Respondent No.1 herein namely (i) Government Resolution dated 15.03.2024 issued by Respondent No.1 (Exhibit-"F" hereto) to the extent mentioned above at pages 65-66 of the Petition; (ii) Government Resolution dated 08.01.2016 issued by Respondent No.1 (Exhibit-"E" hereto) to the extent mentioned hereinabove at pages 65-66 of the Petition, (iii) Government Resolution dated 25.08.2015 issued by Respondent No.1 (Exhibit-"D" hereto) to the extent mentioned hereinabove at pages 65-66 of the Petition and (iv) Government Resolution dated 13.12.2013 issued by Respondent No.1 (Exhibit-"C" hereto) to the extent mentioned hereinabove at pages 65-66 of the Petition.

(i) pending the hearing and final disposal of the present Writ Petition, Respondent No.3 or any other officer of Respondent No.1, be restrained from issuing directions to any teaching staff employed with the said school i.e. A. B. Goregaonkar English School to be absorbed into any other school..

(j) For costs;

(k) For such other and further reliefs as this Hon'ble Court may deem fit in the nature and circumstances of the case."

12. Besides laying challenge to the G.R.s dated 15th March 2024, 8th January 2016, 28th August 2015 and 13th December 2013, the petitioners have challenged the staff approval orders dated 31st July 2024 and 25th April 2025 passed by the Education Inspector–West Zone, Mumbai [also known as the Education Officer (Secondary) Zilla Parishad]. The petitioners state that 1st petitioner-Society runs a school "A.B. Goregaokar

English School" which is a Marathi medium secondary school. This school which was established in the year 1940 imparts education to the children from Class Vth to Class Xth. The school receives the grant-in-aid and is governed by the MEPS Act and the Maharashtra Employees of Private Schools Rules, 1981. The petitioners further plead that 1st petitioner-School is governed by the provisions of the RTE Act and the Rules made thereunder. It is submitted that under paragraph no.1 of the Schedule "A" under Chapter IV of the School Code, it is provided that the Inspecting Officer shall decide the total number of teachers according to size and number of classes in the school and the optional subjects taught there and decide the actual expenditure of salaries according to the approved pay scale. The schools in the State of Maharashtra furnish data as to number of students, number of teachers, names of teachers, number of classrooms, number of classes (divisions) etc. on various government portals and the informations furnished on Saral Portal are considered by the respondent no.3 to decide the staffing pattern.

13. Mr. G. S. Godbole, the learned senior counsel submitted that the G.R.-2024 provides new and different parameters to combine the number of teachers and those are contrary to the Pupil-Teacher ratio under the Schedule to the RTE Act and the MEPS Act as well. Referring to clauses 1, 3, 4 and 5 in the G.R.-2024, the learned senior counsel submitted that by introducing a new "minimum students requirement" for approving the post the government seeks to alter the Schedule to the RTE Act. The government has no power to provide the minimum strength of the students different from what has been provided under the Schedule to sanction the post of teachers. It is further submitted that the provisions under the RTE Act does not cover the schools imparting education for Class IXth and Class Xth and the provisions under Rules 9 and 21 of the MEPS Rules are not taken into consideration to fix the number of teachers for Class IXth and Class Xth. The

MEPS Act and the Rules framed thereunder do not prescribe the method of the Pupil-Teacher ratio to fix the total number of teachers but the G.R.-2024 creates new threshold for sanctioning the posts of teachers. The learned senior counsel submitted that the expression "at least" under clause 1(b)(2) of the Schedule to the RTE Act would indicate that the minimum number of students provided under the Schedule cannot be construed to mean as the maximum ratio. Responding to the decision in "*Sindhudurg Zilla Shikshan Sanstha Chalak Mandal*"[3], the learned senior counsel submitted that the said decision reinforces the applicability of the MEPS Act and the Rules framed thereunder and held in paragraph no.36 that the State government is required to take steps and follow the Schedule to the RTE Act wherever there is any discrepancy between the Schedule and the government circulars/G.R.s. The engagement of retired teachers is provided under Rule 17 of the MEPS Rules and the G.R.-2024 while fixing the number of supervisors, Arts Education, Health and Physical Education and Work Education violates the mandate under the Schedule.

WRIT PETITION NO.7548 OF 2025, WRIT PETITION NO.7552 OF 2025, WRIT PETITION NO.8946 OF 2025, WRIT PETITION NO.10432 OF 2025 and WRIT PETITION NO.10433 OF 2025:

14. Through these writ petitions, the Headmasters of different schools have laid a challenge to the G.R.-2024 insofar as the same relates to the new staffing pattern. The petitioners are seeking a direction to the respondent-Authorities to formulate a policy to comply with the provisions under section 25 of the RTE Act. Mr. Sanjeev P. Kadam, the learned senior counsel for the petitioners submitted that the impugned G.R. runs contrary to the object behind the RTE Act inasmuch as the future of the children living in small villages and hamlets would be destroyed if the number of

3. *Sindhudurg Zilla Shikshan Sanstha Chalak Mandal v. Union of India & Ors.* 2015 SCC OnLine Bom 6772.

teachers is reduced. The petitioners have provided the details of the possible reduction in number of teachers in a tabular chart and apprehend that in the garb of complying with the provisions under the RTE Act, the implementation of the impugned G.R. is likely to reduce the post of teachers in the schools. As a sample, we would extract the chart filed in Writ Petition No.8946 of 2025 which provides the details of reduction in posts of the teachers as under: -

Sr. No.	**Name of the school**	**Headmaster/ authorised person**	**Reduction in posts of Teachers**				
			Head-master	**Std. 1 to 5**	**Std. 6 to 8**	**Std.9 to 10**	**Total**
1	Shri Haribhau Mhanwar Madhyamik Vidyalaya, Karandwadi, Tal. Walwa, Dist. Sangli.	Mrs. Ujjwala Sunil Shingare	-	-	-	3	3
2	New English School, Salshine, Tal. Khanapur, Dist. Sangli.	Shri Shatrughna Krushna Jadhav	-	-	-	2	3
3	Krantisinh Nana Patil Vidyalaya, Punadi, Tal. Palus, Dist. Sangli.	Mrs. Latatai Vasantrao Kamble	1	1	2	1	5
4	Savitribai Jyotirao Phule Madhyamik Vidyalaya, Ramanandnagar, Tal. Palus, Dist. Sangli	Shri Subhash Mahadev Pathak	-	-	1	3	4

15. In the midst of hearing, a short counter-affidavit was filed by the School Education and Sport Department taking the following stand:-

> *"18. It is humbly submitted that the G.R.-2024 in no manner can be said to be ultra vires section 25 as the said G.R. does not disturb the Pupil-Teacher ratio as envisaged in the RTE Act.*
>
> *19. The interpretation of the Schedule by the petitioners is misconceived and that they are reading the same to be three teachers which are exclusively assigned to each school having Classes Vith to VIIIth irrespective of the number of children (i.e. as per their interpretation even for one student per class there should be three teachers exclusively appointed per school by the local authorities). It is humbly submitted that in order to give effect to the*

aforesaid interpretation as contemplated above, the Schedule should have clearly spelt out that exclusive teachers to be appointed for each school/per school in the Schedule irrespective of the number of children. Further, in order to give effect to the aforesaid interpretation of the petitioners, the Schedule norms and standards in S.No.1(b) need to be read in isolation to each other and not together.

20. It is a settled principle in law that the Schedule should be read as a whole in order to give it a correct interpretation. The Schedule when read together contemplates a situation wherein each Class will have strength of 35 children and that the State has obligation to provide three teachers for these three Classes of 35 children each. In the present circumstances, as per the terms of the G.R.-2024, the State government is providing three teachers for 61 children, two teachers are being provided for 20 children and one teacher is being provided for less than 20 children in the group of three Classes i.e. VIth to VIIIth.

21. In the present circumstances, the Schedule is silent on this exclusivity. The only criteria which needs to be complied with in order to adhere to provisions of section 25 as well as the Schedule of the RTE Act is that the children should have three teachers each for the three subjects i.e. (i) Science and Mathematics (ii) Social Studies (iii) Languages. It is humbly submitted that the local authority as well as the State Government are committed to provide these three teachers to the children for each subject and that the same will be provided by re-deploying the teachers from the neighbourhood schools in situations where the total number of children in the school is below 20.

22. It is further submitted that the said re-deployment of teachers in order to maintain the Pupil-Teacher ratio is within the local authorities/State Governments power as expressly contemplated under Rule 22 of the RTE Rules. It is further to be noted that none of the teachers re-deployed will be assigned any work which is of non-educational purpose except for works which are specified in section 27 of the RTE Act.

23. The RTE Act provides that the State shall provide free and compulsory education to all children upto the age of fourteen years. Two crucial expressions in the RTE Act, namely, "free" and "compulsory" manifest legislative intent to remove any financial barrier that prevents a child from completing eight years of his schooling and the duty on the State to provide free education to the children. Section 3 of the RTE Act provides that every child of the age of six to fourteen years shall have a right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education. It further provides that no child shall be liable to pay any kind of fees or charges or expenses which may prevent him or her from pursuing and completing the elementary education. Section 6 imposes an obligation on the appropriate Government and the local Authority to establish a school within such areas or limits of neighbourhood as may be prescribed. Where it is not so established under section 12 and the other provisions under

the RTE Act, it is the duty of every recognized school imparting elementary education whether receiving any kind of aid or grant from the appropriate Government or local Authority to admit the children belonging to weaker section and disadvantaged group in the neighbourhood in Class Ist to the extent of at least 25% of the strength of the Class and to provide free and compulsory elementary education to them till its completion. Section 13 lays down that no school or person shall collect capitation fee while admitting a child or subject the child or his or her parents or guardian to any screening procedure. A duty is caste on all the schools even established prior to the commencing of the RTE Act that they must fulfil the norms and standards specified under sections 25 and 26 and the Schedule. The State has the authority to get ridden of those schools which are non-performing or under-performing or non-compliant to the norms and standards. Upon closure of such schools the students and non-teaching staff thereof are to be transferred to the neighbourhood schools. Under section 18(3), the State has the authority to close down a particular division or the school itself and the students and staff of such schools shall be transferred to the neighbourhood school.

24. Article 21 of the Constitution of India contemplates that the State shall make law. The RTE Act is child-centric and not institution-centric and the manner in which the obligation under the RTE Act shall be discharged by the State has been left to the State to be determined by law. Right to work is not recognized as a fundamental right and the State is not obliged to provide work for livelihood. This is under the Directive Principles of State Policy under Article 41 of the Constitution of India that State shall within the limits of its economic capacity and development make effective provisions for securing right to work. It is said that social inclusiveness is motto behind the RTE Act. The Universal Declaration of Human Rights,1948, the International Covenant of Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, 1966, even the Convention on the Rights of the Child, 1989 and the other International Covenants/Conventions protect the rights of the children and such rights of the children bring in corresponding State obligation to respect, protect and fulfil realization of children's rights. The expression "such manner" under Article 21A of the Constitution of India means the manner in which the State chooses to discharge its constitutional obligation."

16. Mr. O. A. Chandurkar, the learned Additional Government Pleader submitted that the RTE Act is student-centric and the G.R.-2024 maintains the Pupil-Teacher ratio. It is contended that the mandate under the RTE Act is being scrupulously followed by the School Education and Sports Department inasmuch as the number of teachers as indicated in the Schedule to the RTE Act shall not decrease by virtue of the G.R.-2024. The learned Additional Government Pleader further submitted that a scheme for

rotational deployment and re-employment of the teachers has been devised under the G.R.-2024 so that surplus teachers are sent to the nearby schools, keeping in mind the additional requirements of the teachers in the nearby schools. This is the stand taken by the respondent-State in the affidavit filed in the present proceedings that surplus teachers shall be assigned to other schools where there is a deficiency of teachers and the apprehension raised on behalf of the petitioners that the surplus teachers shall be terminated from service is unfounded. The learned Additional Government Pleader submitted that this Court may not interfere with the G.R.-2024 and the other G.R.s in exercise of the powers of judicial review under Article 226 of the Constitution of India, inasmuch as, no statutory right of the teachers or the management of the schools leave alone any fundamental right is violated and the petitioners have failed to demonstrate that they have a legal right in law and corresponding duty on the State-respondents which they have failed to perform.

17. Opposing the writ petitions, the learned counsel appearing for the Zilla Parishad supported the stand taken by the School Education and Sport Department, State of Maharashtra and adopted the arguments made by Mr. O. A. Chandurkar, the learned Additional Government Pleader.

18. The Universal Declaration of Human Rights, 1948, the International Covenant of Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, 1966, even the Convention on the Rights of the Child, 1989 and the other International Covenants/Conventions protect the rights of the children and such rights of the children bring in corresponding State obligation to respect, protect and fulfill realization of the children's rights. The RTE Act provides that the State shall provide free and compulsory education to all children upto the age of fourteen years. Two crucial expressions in the RTE Act, namely, "free" and "compulsory" manifest legislative intent to remove any financial barrier that prevents a

child from completing eight years of his schooling and the duty on the State to provide free education to the children. It is said that social inclusiveness is motto behind the RTE Act. Section 3 of the RTE Act provides that every child of the age of six to fourteen years shall have right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education. It further provides that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education. Section 6 imposes an obligation on the appropriate government and the local authority to establish a school within such areas or limits of the neighbourhood as may be prescribed. Where it is not so established under section 12 and the other provisions under the RTE Act, it is the duty of every recognized school imparting elementary education whether receiving any kind of aid or grant from the appropriate government or local authority to admit the children belonging to weaker section and disadvantaged group in the neighbourhood to the extent of at least 25% of the strength of the class and to provide free and compulsory elementary education to them till its completion. Section 13 lays down that no school or person shall collect capitation fee while admitting a child or subject the child or his or her parents or guardian to any screening procedure. A duty is caste on all the schools even established prior to the commencing of the RTE Act that they must fulfill the norms and standards specified under sections 25 and 26 and the Schedule. The State has the authority to get rid of those schools which are non-performing or under-performing or non-compliant to the norms and standards. Upon closure of such schools, the students and non-teaching staff thereof are to be transferred to the neighbourhood schools. Under section 18(3), the State has the authority to close down a particular division or the school itself and the students and staff of such schools shall be transferred to neighbourhood school.

19. The G.R.-2024 refers to the RTE Act and lays down the pattern for sanctioning the post of the teachers. For Class Ist to Class Vth, it provides that there shall be two posts of teachers if the total number of students exceeds half of 30, that is, 16 (15+1). It further provides that there shall be seven posts of teachers where the number of students is 210 and there shall be one additional post of the teacher for every 40 students if the total number of students goes beyond 210. Similarly, for the group of Class VIth to Class VIIIth, there shall be a provision of two teachers if the total number of students exceeds half of 35 students. However, if the number of students goes below the group number then the protected post shall be removed. One post of Headmaster in the primary and upper primary school is sanctioned in every school where the total strength of the students is 150 and the previously sanctioned post shall be protected if the minimum number of students in the school is 135. To test the validity of the G.R.-2024, we propose to make a comparative study of the said G.R. with the Schedule to the RTE Act. The G.R.-2024 reads as under: -

GOVERNMENT RESOLUTION

15th March 2024

Taking into consideration the provisions made in Right of Children to Free and Compulsory Education Act, 2009, the following norms are prescribed as to start new schools – Primary, Higher Primary and Secondary in the State, to decide posts of teachers based on number of students, to create posts, if in more students are in one class, then to grant teacher post,:-

1. Primary School – Primary and Higher Primary (Std. I to IV/V, Std. I to VII/VIII.

Sr. No.	Type of school	Group	Std group In school	No. of Students group	Admissible No. of Teachers	For sanction of admissible teachers minimum required strength of students	Required minimum strength of students to protect previous sanctioned posts
				Minimum 1 teacher 1 to 20 no. of students, thereafter on second post			

				appointment of retired teacher as per requirement.			
1	Primary school (std. 1 to IV/V) (std. I to VII/VIII).	Std. I to V	Std I to V (or any of the standard out of this	20 to 60	2	20	20
				61 to 90	3	76	61
				91 to 120	4	106	891
				121 to 150	5	136	121
				151 to 180	6	166	151
				181 to 210	7	196	181
				Upto 210 no. of students, as per norms of RTE one post is admissible for every 30 students.			
				211 to 250	8	231	210
				210 onwards	Upto 210 no. of students, as per norms of RTE one post is admissible for every 40 students		
			If having any one of standard	10 to 35	1	10	10
				36 to 70	2	53	36
				71 to 105	3	88	71
				105 onwards	One post for every 135 students		
		VI to VIII standard	If having any of the two standard	20 to 70	2	20	20
				71 to 105	3	88	71
				105 onwards	One post admissible for every 35 students.		
141			If having three standard	From 20 to 60	2	20	20
				61 to 105	3	78	61
				106 to	4	123	106

				140			
				1451 to 175	5	158	
				175 onwards	One post admissible for every 35 students		

1.1In the group of std I to stnd V, for strength of students, as per norms of R.T.E., required strength of students is more than half of 30 i.e. (15+1) if 16 students, next post is admissible.

1.2 In Std I to std IV group, number of student becomes less than group number, then the protected post will also be removed.

1.3In Std I to std. V. group, if student are more than 210, then while computing the admissible post, upto 210 students 7 teachers, and wc10 onwards i.e. for every 40 students, one post is admissible.

1.4In VI th to VIII group, as per norms of R.T.E. if the required number of students is more than half of 35 students, i.e. (17+1), then next post is admissible.

1.5for Std VI to VIII, group, for sanction of new post, the no. of students shown in table is required.

1.6In VI to VIII group, if the number of students reduced than required number, then protected post will also be removed.

1.7the concerned management while making available actual teacher shall take into consideration the programme of subject wise for students in a group of VI to VIII/.

1. Head Master posts (Primary and Higher Primary) (I STD TO IV TO V std or I to VII/VIII std.

sr. no.	Post	Group	Strength	Admissible post as per norms	For giving protection to earlier sanctioned posts, required minimum students
1	Head master	Std I to Std IV/V	150	1	135
2	Head master	Std I to Std VII/VIII	150	1	135

2.1 If strength of student becomes as mentioned in the table, then independent Head Master post will be sanctioned.

Sr. No.	Type of school	Group	Std group in the school	Group of no. of students	Admissible Teacher posts	Minimum required students for	Required minimum strength of students for

						sanction of admissible post	sanction of earlier post.
1	Secondary School (std. I to std. V,) (std. VIII to std. X)	Std. 1 to std.V	Std I to std. V or any of the Std.	20 to 30	1	20	20
				31 to 60	2	46	31
				61 to 90	3	76	61
				91 to 120	4	106	91
				121 to 150	5	136	121
				151 to 180	6	166	151
				181 to 210	7	196	189
				1 post after every 30 students as per RTE upto 210 strength of students.			
				211 to 250	8	231	210
				1 post admissible after every 40 students after 210 strength of students.			
			If any one of the standard	20 to 35	1	20	20
				36 to 70	2	53	36
				71 to 175	3	88	71
				105 onwards	One post admissible for every 35 students.		
		Std. VI to VIII	If any of the two standard available	40 to 70	2	40	40
				71 to 105	3	88	71
				105 onwards	One post admissible after every 35 students		
			If three standards are available	60 to 105	3	60	60
				106 to 140	4	123	106
				141 to 175	5	158	141
				175 onwards	One post admissible after every 35 students.		
		Std. IX	If any	20 to 60	1	20	20

		to Std X	one of the standard is available in school	61 to 100	2	81	61
				101 to 140	3	121	101
				141 to 180	4	161	141
				181 to 220	5	201	181
			If both standards are available and minimum 20 students available	40 to 100	3	40	40
				101 to 140	4	121	101
				141 to 180	5	161	141
				181 to 220	6	201	181
				221 onwards	After every 40 students one post is admissible.		

3. Secondary School (group I to V/ group VI to VIII/std.IX to X

3.1 for Std. I to V, for strength of students, as per R.T.E. norms, if more than half of 30 students i.e. (15+1) are available, next post is admissible.

3.2 If the number of students are less than minimum strength of students, then protected post be removed.

3.3 In I to V th std if number of students are more than 210, while computing the admissible posts, upto 210 students, 7 teachers and from 210 onward, for every 40 students one post admissible.

3.4 In VI to VIII std. Group, as per norms of R.T.E., if more than half of 35 students i.e. (17+1), 18 students available, next post is admissible.

3.5 for Std. VI to VIII group, for sanction of new post, minimum strength of students as shown in table is necessary.

3.6 If the number of students are less than minimum strength of students, then protected post be removed.

3.7 For Std. IX to X, if number of students are more than 220, for getting admissible next post, the strength of students should be more than half of 40 students, i.e. 21 students required.

3.8. The concerned management while making available the actual teacher, shall take into consideration the programme of subject wise for students in a group of VI to VIII.

4. Head Master/Deputy Head Master/Supervisor of the secondary school

Sr. no.	Type of school	Post	No. of students/teachers post	No. of posts
1	Std. I/V to std. X Std. I/V to Std. XII And Std. VIII to std. X Std. VIII to Std. XII	Head Master	Minimum 150 students required	1
2		Deputy Head Master	Minimum 31 teachers posts required.	1
3		Supervisor	16 to 46 teachers	1

			post required	
4		Supervisor	46 to 60 teachers post required	2
5		Supervisor	61 teachers posts required	3

4.1 *As per norms shown in table, if the post of Head Master becomes surplus, they shall be deployed in other schools of respective management. In entire district or in same management, if Head Master becomes surplus, they should be appointed on vacant post of teacher by protecting his pay.*

4.2 *While sanctioning the posts of Deputy Head Master and Supervisor, the total strength of sanctioned teachers (aided, partly aided, unaided) will be taken into consideration. If any of post is decreasing, on the post of Deputy Head Master /Supervisor, if recognized employees working, then the concerned institution will deploy them and if for their deployment post is not vacant, they will be given protection till their retirement.*

5. Special Teacher Secondary School.

Sr. No.	Type of school	No. of students	Special teacher (sports)	Special Teacher (arts/music)	Special Teacher Work-experience ICT	Total special teachers.
1	(I to Xth)	251 to 500	1 post	nil	Nil	1 post
		501 to 750	1 post	1 post	1 post	3 posts
		751 to 1000	2 posts	1 post	1 post	4 posts
		1000 to 1250	2 posts	2 posts	1 post	5 posts
		1251 to 1500	3 posts	2 posts	1 post	6 posts
		1500 onwards	3 posts	2 posts	2 posts	7 posts
2	Std. VIII to std X	151 to 500	1 post	Nil	Nil	1 post
		501 to 750	1 post	1 post	1 post	3 posts
		751 to 1000	2 posts	1 post	1 post	4 posts
		1000 to 1250	2 posts	2 posts	1 post	5 posts
		1251 to 1500	3 posts	2 posts	1 post	6 posts
		1500 onwards	3 posts	2 posts	2 posts	7 posts

20. The Schedule to the RTE Act provides as under :-

THE SCHEDULE

(See Sections 19 and 25)

Norms and Standards for a School

Sr. No.	Item	Norms and Standards
1	**Number of Teachers**	
	(a) For first class to fifth class	
	Admitted Children	Number of Teachers
	Up to sixty	Two
	Between sixty-one to	Three
	Ninety	
	Between ninety-one to one hundred and twenty	Four
	Between one hundred and twenty-one to two hundred	Five
	Above one hundred and fifty children	Five plus one Head Teacher
	Above two hundred children	**Pupil-Teacher Ratio (PTR)** (excluding Head Teacher) shall not exceed forty
	(b) For six class to eighth class	(1) At least one teacher per class so that there shall be at least one teacher each for-
		(i) Science and Mathematics;
		(ii) Social Studies;
		(iii) Languages
		(2) At least one teacher for every **thirty-five** children
		(3) Where admissions exceed one hundred
		(i) a full-time Head Teacher
		(ii) Part-time instructors for:
		(A) Art Education
		(B) Health and Physical Education
		(C) Work Education

21. The Schedule to the RTE Act provides the norms and standards for a school under which the number of teachers and Pupil-Teacher Ratio (PTR) have been provided. On a comparison of the provisions for sanction of the posts of teachers under the G.R.-2024 and the number of teachers indicated in the Schedule, we observe that there is no conflict between the two. The G.R.-2024 doesn't contravene or dilute the norms and standards provided under the Schedule in any manner whatsoever. The use of the

expression “up to” in serial no.1(a) of the Schedule is quite significant. It provides that if the number of admitted children for Class Ist to Class Vth is up to 60 then the number of teachers shall be two. By providing the minimum number of children as 20 in a primary school to become entitled for minimum one teacher, the G.R.-2024 seeks to offer better option to school management. The G.R.-2024 works out in favour of the school management insofar as it provides that if the required strength of the students goes beyond 15, that is, half of the prescribed strength of 30 then an additional post of teacher shall be appointed on contract basis. The G.R.-2024 seeks to provide better education to the children by providing two teachers in a school where the strength of students is between 20 to 60. There shall be a provision for three teachers in a school where the admitted number of children is between 61 to 90 and the minimum strength of the students is 76. This figure of 76 has been calculated by adding 16 students to the figure of 60 students which is the minimum strength of students required for two teachers. Similarly, where the required number of students is more than half of 35 students as per the RTE norms, that is to say, 18 students then an additional post of the teacher is made available. The G.R.-2024 may not have a statutory force of law but it is legal and valid. The Schedule to the RTE Act does not provide the minimum strength of the students for maintaining the Pupil-Teacher ratio. By providing the minimum number of students for each category, the G.R.-2024 seeks to bring in more clarity for the smooth functioning of the RTE Act. The decision to fix the minimum number of students for opening a new school and for providing teacher/teachers depending on the strength of the students has been left to the State government and local authorities. Such a decision shall depend on several factors to be considered, such as, population in the area, availability of neighbourhood school, socio-economic background of the area and, more importantly, object behind the RTE Act. In case of the Headmaster, it is provided that a surplus Headmaster shall

be deployed in the other school of the same management. However, if the existing Headmaster in the entire district or in the same management becomes surplus then he is appointed on the vacant post of teacher and his pay is protected. A special teacher in the secondary school is also provided where the number of students goes beyond 250.

22. The RTE Act is child-centric and not institution-centric and the manner in which the obligation under the RTE Act shall be discharged by the State has been left to the State to determine by law. Right to work is not recognized as a fundamental right and the State is not obliged to provide work for livelihood. This is under the Directive Principles of State Policy under Article 41 of the Constitution of India that State shall within the limits of its economic capacity and development make effective provisions for securing right to work. Furthermore, the RTE Act does not restrict the child to seek admission in a school which is not in the neighbourhood of his residence. The idea of the neighbourhood school can be traced to the National System of Education as discussed and elaborated in the Kothari Commission Report. The “neighbourhood school” means any space where all children cutting across the caste, class and gender lines are imparted education in the best inclusive manner. The RTE Act does not define the limits or area of neighbourhood as a centralised norm and requires the appropriate government to notify such limits or area in the Rules framed thereto. This was a conscious and deliberate decision of the Parliament having regard to the diverse geography, climatic terrain and varied development requirements in different States that the limits or area of neighbourhood was not defined. This conscious decision seems to have its foundation in the fact that the States would be in a better place to define neighbourhood. In the Model RTE Rules, the Central government provided the distance norms of one kilometer for the children in Class Ist to Class Vth and three kilometer for the children in Class VIth to Class VIIIth. The

limitations under section 25 of the RTE Act are indicated in the clause 2 which says that the teacher shall not be deployed for non-academic work except for (i) decennial population census; (ii) disaster relief and (iii) elections to Parliament, State Legislatures and local bodies as provided under section 27. Section 35 of the RTE Act provides for the Central government to issue guidelines and provisions for the appropriate government and the local authorities for effective implementation of the provisions in the RTE Act. Rule 22 provides for maintaining the Pupil-Teacher ratio in each school for the purpose of section 25 of the RTE Act. Proviso to Rule 22 requires the Central government or the State government or the local authority to redeploy the teachers if a particular school has strength in excess of the sanctioned strength.

23. The law is well settled that the executive instructions issued by the government in exercise of the powers under Article 226 of the Constitution of India cannot substitute the statutory provisions and/or the Rules framed thereunder. In "*Sant Ram Sharma*[4]*"*, the Hon'ble Supreme Court observed that the government can fill up the gaps and supplement the Rules and issue instructions not inconsistent with the Rules, if any, on any particular point where the Rules are silent. However, the government cannot amend or supersede the statutory Rules by the administrative instructions. The government cannot also supplant or substitute the statutory Rules through the executive instructions. In "*Sant Ram Sharma",* the Hon'ble Supreme Court held as under :-

> "***7.*** *We proceed to consider the next contention of Mr N.C. Chatterjee that in the absence of any statutory rules governing promotions to selection grade posts the Government cannot issue administrative instructions and such administrative instructions cannot impose any restrictions not found in the Rules already framed. We are unable to accept this argument as correct. It is true that there is no specific provision in the Rules laying down the principle of promotion of junior or senior grade officers to selection grade posts. But that does not mean that till statutory rules are*

4. *Sant Ram Sharma v. State of Rajasthan:* 1967 SCC OnLine SC 16.

> *framed in this behalf the Government cannot issue administrative instructions regarding the principle to be followed in promotions of the officers concerned to selection grade posts. It is true that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed."*

24. In "*Dr. Rajendra Singh*"[5], the Hon'ble Supreme Court observed that no government order, notification or circular can be a substitute of the statutory Rules framed with the authority of law. There is, however, no prohibition or bar in law on the powers of the government to issue executive instructions under Article 162 of the Constitution of India with regard to the matters which are not provided in the statutory Rules but such executive instructions must remain confined to the sweep and scope of the statutory Rules. In "*Paluri Ramakrishnaiah*"[6], the Hon'ble Supreme Court held that the executive instructions can make a provision with regard to a matter which is not covered by the statutory Rules, provided such executive instructions do not seek to override any provision in the statutory Rules. We may also refer to the decision in "*District Registrar Palghat*"[7] wherein the Hon'ble Supreme Court held as under :-

> *"22. There can be no quarrel with the proposition that if the statutory rules framed by the Governor or any law enacted by the State Legislature under Article 309 is silent on any particular point, the Government can fill up that gap and supplement the rule by issuing administrative instructions not inconsistent with the statutory provisions already framed or enacted. The Executive instructions in order to be valid must run subservient to the statutory provisions. In the instant case, however, it could not be said that there was a gap or a void in the statutory provisions in the matter of promotion from the cadre of Lower Division Clerks to that of Upper Division Clerks."*

25. This is the general principle applied in service jurisprudence that the executive instructions and decisions would operate in the field in absence of

5. *Dr. Rajendra Singh v. State of Punjab:* (2001) 5 SCC 482.
6. *Paluri Ramakrishnaiah v. Union of India & Anr.:* (1989) 2 SCC 541.
7. *District Registrar Palghat & Ors. v. M. B. Koyakutti & Ors.:* (1979) 2 SCC 150.

any statutory rules governing the field. The operation of the executive instructions extends to the field of promotions and even appointments to be made in the department. In "*M. M. Dolichan*"[8], the Hon'ble Supreme Court held that the government has power to issue administrative order governing the service conditions of its employees in absence of any statutory provision governing the field. In "*Permian Basin Area Rate Cases*"[9], the Court held that the government is entitled to make pragmatic adjustments which may be called for by particular circumstances. The decision of the government to issue the G.R.-2024 to lay down the guidelines for sanctioning the strength of teachers, Headmasters and other teachers is in furtherance of the constitutional goal to provide free education. In "*Rajneesh Kumar Pandey*", the Hon'ble Supreme Court observed that the norms and standards specified in the Schedule regarding the Pupil-Teacher ratio are only to delineate the minimum benchmark and it does not put an embargo to the powers of the State government being the appropriate government to provide for a higher benchmark for ensuring quality education by the schools. The Hon'ble Supreme Court further observed that the school management is free to appoint more teachers on its own beyond the benchmark specified in the Schedule or by the appropriate government for imparting quality education to its students. A government decision is taken in view of the need for stimulating efficiency, to improve the management methods and to balance the growing needs etc. and its decisions can be faulted only where it is found that there is something in law which renders the government decision impermissible. Even in cases where the previous decision of the government on a particular issue receives approval of the Court, there is no bar in law on the exercise of powers by the government to bring in another executive instructions on the same matter or issue. Indeed,

8. *M.M. Dolichan & Ors v. State of Kerala & Ors.* (2001) 1 SCC 151.
9. *Permian Basin Area Rate Cases:* 390 US 747 (1968).

the Courts would not enter into the realm of decision making which belongs to the executive.

26. The High Court in exercise of its powers under Article 226 of the Constitution of India cannot substitute itself and assume the role of a fact finding body. The High Court cannot also exercise its writ jurisdiction to conduct a roving enquiry to gather some facts which are not pleaded in the petition and only a vague suggestion is made by the petitioners. The exercise of powers under Article 226 of the Constitution of India must be based on indisputable facts and not otherwise. The writ Court cannot interfere with an executive decision questioning the soundness and wisdom of such a decision. Like a policy decision, every executive decision is subject to judicial review on the limited grounds of non-compliance with the statutory or fundamental rights or where the executive decision is found lacking in *bonafide* or suffering from patent illegality or lack of jurisdiction. The judicial review of an executive decision does not touch upon its corretness, suitability or appropriatness. The Court does not become advisor to the executives to formulate a policy which they are entitled to formulate. This Court cannot issue a writ of mandamus to the respondent-State to implement or not to implement a particular policy or a scheme on the ground that a better, fairer or wiser alternative is available. In "*Balco Employees' Union (Regd)*"[10], the Hon'ble Supreme Court held as under:-

> *"92. In a democracy, it is the prerogative of each elected Government to follow its own policy. Often a change in Government may result in the shift in focus or change in economic policies. Any such change may result in adversely affecting some vested interests. Unless any illegality is committed in the execution of the policy or the same is contrary to law or mala fide, a decision bringing about change cannot per se be interfered with by the court."*

10. *Balco Employees' Union (Regd) v. Union of India & Ors.* (2002) 2 SCC 333.

27. This is not correct to say that the government has no powers to assign ministerial works to any person or authority or agency/private agency to carry out ministerial work which is necessary for effecting the directions and mandate under the G.R.-2024. The proposed assignment of work to be carried out by the respondent no.7 does not impinge upon any of the powers and functions of the Zilla Parishads. The award of some of the ministerial works to the Zilla Parishad is intended to facilitate the smooth working of the G.R.-2024. This is also not correct to say that a teacher or a school gets unfettered right under the previous staffing pattern and can claim that the previous staffing pattern of 2024 must be adhered to. The provisions under the RTE Act and, more particularly, the provisions for maintaining the minimum number of teachers are intended to protect the right of the children to free education. This provision under the RTE Act cannot be stretched too far and to be construed as if the surplus teachers have a statutory right to remain in a particular school or on a particular post as assistant teacher or a graduate teacher. The observations made in "*Avinash Mehrotra"* is only with reference to liberty to the management of the school to keep or engage teachers beyond the minimum number indicated in the Schedule to the RTE Act. The observation by the Hon'ble Supreme Court seems to have been misconstrued by the petitioners who claim that they should remain in the same school because the government can provide more number of teachers. Looking at the scheme under the G.R.-2024 and the statement made on an affidavit by the Secretary, School Education and Sports Department that no teacher can be disengaged or terminated from service, we hold that the very foundation of laying challenge to the G.R.-2024 has crumbled. The apprehension raised by Mr.S. S. Pakale, the learned senior counsel that a large number of teachers may be terminated from service is clearly unfounded in view of the undertaking that the surplus teachers shall be transferred and engaged in the neighbourhood schools. The respondent-Department of School Education

and Sports has committed itself on affidavit that the mandate under section 25 of the RTE Act shall be strictly followed and, that, no teacher who may be declared surplus can be engaged in any other work except as provided under section 25.

28. The G.R. dated 23rd September 2024 has been issued with reference to the appointment of one retired teacher in a school where the total number of students is less than 10. The said G.R. provides that the eligible unemployed candidates holding D.Ed and B.Ed. qualifications shall be provided an opportunity to work on the post of teacher. It is provided that the minimum and maximum tenure of such a teacher shall be as per the government rules and such unemployed candidates shall be appointed on contractual basis and shall have no right to claim benefits of regular service. The G. R. dated 23rd September 2024 provides as under :-

Government of Maharashtra
Department of School Education and Sports
Government Decision No. Miscellaneous-
2024/P.No.666/TNT-1
4th Floor, Extension Building,
Hutatma Rajguru Chowk, Mantralaya, Mumbai – 400032
Date :- 23rd September 2024.

Read :-
1) Government Letter No. Sankirna 2023/P.No.362/ TNT-1, dt. 07.07.2023.
2) Government Decision No.SSN 2015/(P.No.16/15)/TNT-2, dated 15.03.2024.
3) Government Letter No. Sankirna 2024/P.No.414/TNT-1, dated 15.07.2024.
4) Government Decision No. Reg.2024/P.No.666/TNT-1, dated 05.09.2024.

Preface:-

In the state, provision has been made for one teacher out of two teachers appointed in schools with a strength of less than 10 to be a retired teacher. Accordingly, it is not necessary that retired teachers will be available in all schools with a low strength. Also, when the number of eligible unemployed candidates holding D.Ed and B.Ed qualifications is large in state, it would not be appropriate to appoint retired teachers. If

such an opportunity is given, the posts of teachers will not remain vacant and the educational progress of the students will not be affected. Also, eligible unemployed candidates holding D.Ed and B.Ed qualifications will get an opportunity to work in teaching posts. At present, the matter of giving appointment to eligible candidates holding D.Ed and B.Ed qualifications in schools with a strength of less than 10 was under the consideration of the government.

Government Order :-

The Government Resolution No.4 of the above mentioned Government Resolution dated 05.09.2024 regarding the appointment of one teacher out of the two approved teachers in schools with a strength of less than 20 in Local Government Institutions from among retired teachers or unemployed teachers, holding D.Ed, B.Ed qualifications is being repealed.

02. In schools of local government institutions with a strength of less than 10 students, one of the two approved posts of teachers will be filled by unemployed teacher candidates holding D.Ed, B.Ed qualifications. The provisions in this regard are being made as follows:

1. The minimum and maximum tenure as per Government Rules will be applicable for the said appointment.

2. Since the unemployed candidates holding D.Ed, B.Ed qualifications are given appointment on a contractual basis, the concerned will not have the right/entitlement to join/acquire service in any organization of the Government and to get any other benefits of regular service.

3. The initial period of appointment will be for one academic year. However, the appointment may be renewed annually for further periods as required on the basis of merit and suitability.

4. Remuneration Rs. 15,000/- per month (excluding any other benefits)

5. Total 12 leave entitlements (leave in excess of total leave entitlements will be unpaid).

6. There will be no administrative powers whatsoever.

7. It will be necessary to sign an agreement with the Education Officer (Primary) on behalf of the District Council.

8. Bond/Guarantee: Completion of the specified work of the teacher's post on a contractual basis during the period of appointment. The responsibility of the concerned person to do so shall be borne by the person concerned. The bond/undertaking shall state that the terms and conditions specified by the Government while giving appointment on contract basis, the additional terms and conditions specified by the Department are acceptable and that no claim shall be made for regular service or any other right by the persons appointed on contract basis and that no objection shall be entertained if the competent authority terminates the service on contract basis before the expiry of the period mentioned in the contract in special circumstances.

9. Teaching hours will be as per other regular teachers.

10. The Education Officer (Primary) and Chief Executive officer, District

Council, concerned with each district, shall issue appointment orders by inviting applications from eligible and interested candidates.

11. The Commissioner (Education) may issue further instructions as required in connection with the said process should be done.

12. The Appointing Authority shall have the right to terminate the service on such contract basis at any time in exceptional circumstances.

13. If it is found that a teacher appointed on a contractual basis is not physically, mentally or healthily competent and does not have the necessary capacity for the proposed service, his contractual service will be terminated.

14. The persons appointed on contract basis shall be required to maintain confidentiality regarding the documents/information and supporting materials received by them.

15. The persons appointed on contract basis shall be required to complete the work assigned to them within the stipulated time period. The competent authority for appointment shall conduct a detailed review of their work and evaluate the work. In the said evaluation, the contractor if it is found that the teacher's work is not satisfactory, his contract will be terminated immediately.

16. If the strength of the school exceeds 10, the service of the contractual teacher holding D.Ed and B.Ed qualifications appointed on a contractual basis will continue until the appointment of a regular teacher. The service of the contractual teacher will automatically terminate after the appointment of regular teachers.

17. A person appointed on contact basis shall not be engaged in any professional activity which may interfere with the performance of the assigned service.

18. A person employed on a contractual basis will be required to declare the financial relationships involved.

19. Out of two regular teachers working in local government schools with less than 10 students, one teacher shall be transferred to a school with a higher student body on a priority basis through counselling. In this, willingness of both the regular teachers shall be taken. If both the teachers are willing to be transferred, then the service teacher shall be given priority. Also, both the regular If the teacher is not willing to be transferred, the service teacher may be transferred. However, the regular teacher should not be transferred until the contract teacher is appointed.

20. The immediate control over such teachers appointed on contractual basis will be that of the Head of the Centre. Thereafter, it will be under the control of the Group Education Officer and Education Officer (Primary)

21. The guidelines issued as per the reference Government letter, dated 07.07.2023 and Government letter, dated 15.07.2024 will henceforth remain applicable to schools with a strength of more than 10. The remuneration to be paid for this will be Rs 15,000/- from the date of issuance of the said Government Decision.

22. The expenditure on the above matters shall be met from the sanctioned grant.

23. The provisions of the said Government Regulation shall be applicable only to the schools of local government bodies.

03. The said government decision has been made available on the website of the Government of Maharashtra www.maharashtra.gov.in and its code number is 202409231710300821. This government decision is being issued after being authenticated with a digital signature.

By order and in the name of Governor of Maharashtra,

Sd/-
TUSHAR VASANT MAHAJAN
Deputy Secretary, Government of Maharashtra"

29. The G.R. dated 23rd September 2024 provides that the appointments shall be made for one year and that may be renewed for further period subject to merit and suitability of the candidate. It further provides that if the total number of students in a school exceeds 10 then the services of the contractual teacher shall automatically be terminated when appointment of regular teacher is made. This G.R. provides an additional teacher for the school where the total number of teachers is less than 10 and thus makes education more accessible to the children. It does not impinge upon the right of any teacher and addresses the issue of unemployment.

30. Merely because it is relatively a swift method of redressal of grievances, the avenue for writ remedy under Article 226 of the Constitution of India is not available to the aggrieved teachers, Headmasters and Zilla Parishads. This is also not correct to say that the writ petition under Article 226 of the Constitution of India shall lie because some right or protection under Articles 14 and 16 of the Constitution of India has been violated and, as a consequence thereof, civil consequences shall follow. The jurisdiction of the High Court under Article 226 of the Constitution of India can be exercised in cases where the substantive rights of a person flow from any statutory provision or from Articles 14 and 16 of the Constitution of India like the right to equality, equal pay for equal work, right to pension etc. are

claimed. The High Court has power to strike down a statutory provision, a statutory Rule or an executive instruction on the ground of want of authority but the High Court shall not sit in appeal over the decision of the Legislature or the executive unless it is demonstrated before the Court that such statutory provision or the executive instruction is patently arbitrary, illegal or *mala fide*. If the government or its instrumentality has acted fairly and the executive decision is applied uniformly across all sections of the similarly situated employees, the Court cannot interfere even if the government or its instrumentality seems to have faltered in wisdom. The jurisdiction of the High Court under Article 226 of the Constitution of India is limited to the question whether the administrative decision is fair and the procedural norms were substantially complied and not laced with unreasonableness. In a democratic set-up, the government has to deal with complex problems and the validity of an executive decision cannot be tested on any rigid *a priori* considerations or on the application of any straitjacket formula. In "*Metropolis Theater Co."*[11], the Hon'ble Supreme Court of United States observed that the problems of the government are practical ones and may justify, if they do not require, rough accommodations, illogical, it may be, and unscientific. The Hon'ble Supreme Court had observed as under :-

> *"The problem of Government are practical ones and may justify, if they do not require, rough accommodations, illogical, it may be, and unscientific. But even such criticism should not be hastily expressed. What is best is not discernible, the wisdom of any choice may be disputed or condemned. Mere errors of Government are not subject to our judicial review. It is only its palpably arbitrary exercises which can be declared void."*

31. Writ Petition No.8754 of 2025, Writ Petition (ST) No.24468 of 2025 and Interim Application (ST) No. 20158 of 2025 are filed by the teachers who are seeking couple-convenience. An interim application is filed in Writ Petition No.5460 of 2025 (Interim Application (ST) No.20158 of 2025) by forty petitioners who are seeking a direction to the respondent-Zilla

11. *Metropolis Theater Co. v. State of Chicago:* 228 US 61 (1912).

Parishad and the Education Officer (Primary) to process their application for intra-district transfer as per clause 1.9 read with clause 4.3 of the G.R. dated 18th June 2024 so that they remain posted within the radius of 30 kilometer at a place where their spouses are working. In "*Jagjit Singh Mehta*"[12], the Hon'ble Supreme Court observed that it is desirable that the husband and wife are ordinarily and as far as practicable posted at the same station/place but that does not mean that the place of posting should be one of their choice. In "*Jagjit Singh Mehta*", the Hon'ble Supreme Court held as under:-

> "***5.*** *There can be no doubt that ordinarily and as far as practicable the husband and wife who are both employed should be posted at the same station even if their employers be different. The desirability of such a course is obvious. However, this does not mean that their place of posting should invariably be one of their choice, even though their preference may be taken into account while making the decision in accordance with the administrative needs. In the case of all-India services, the hardship resulting from the two being posted at different stations may be unavoidable at times particularly when they belong to different services and one of them cannot be transferred to the place of the other's posting. While choosing the career and a particular service, the couple have to bear in mind this factor and be prepared to face such a hardship if the administrative needs and transfer policy do not permit the posting of both at one place without sacrifice of the requirements of the administration and needs of other employees. In such a case the couple have to make their choice at the threshold between career prospects and family life. After giving preference to the career prospects by accepting such a promotion or any appointment in an all-India service with the incident of transfer to any place in India, subordinating the need of the couple living together at one station, they cannot as of right claim to be relieved of the ordinary incidents of all-India service and avoid transfer to a different place on the ground that the spouses thereby would be posted at different places. In addition, in the present case, the respondent voluntarily gave an undertaking that he was prepared to be posted at any place in India and on that basis got promotion from the clerical cadre to the officers' grade and thereafter he seeks to be relieved of that necessary incident of all-India service on the ground that his wife has to remain at Chandigarh. No doubt the guidelines*

12. *Bank of India v. Jagjit Singh Mehta:* (1992) 1 SCC 306.

require the two spouses to be posted at one place as far as practicable, but that does not enable any spouse to claim such a posting as of right if the departmental authorities do not consider it feasible. The only thing required is that the departmental authorities should consider this aspect along with the exigencies of administration and enable the two spouses to live together at one station if it is possible without any detriment to the administrative needs and the claim of other employees."

The G.R. dated 18th June 2024 provides as under:-

*"**4. Process of transfer :-***

4.1 ***Stage 1 :*** *The schools wherein vacant posts are less than the posts to be kept vacant and in those schools if there are teachers eligible for transfer, those teachers will be transferred from that school. However, in those schools if teachers eligible for transfer are not available, then as per process mentioned below, their name will be included in the list meant for eligible for transfer as stated below :-*

e.g. If in one of school there is ready reckoner of 10 teachers, as per point No.2.3, 3 posts. In the present situation in this school, if one post is vacant, therefore, it is necessary to keep vacant two more posts.

4.1.1 *A school where three teachers are eligible for transfer, in such case, two teachers eligible for transfer in that school will be transferred on the basis of their seniority list and in such a way as per point No.2.3 three posts will be kept vacant.*

4.1.2 *If one teacher in school is eligible for transfer, in such case transfer of such one teacher will be made and total two posts will be kept vacant in the said school.*

4.2 Stage No.2. Transfers of Special cadre part 1.

4.2.1 *On completion of process as per stage No.1, list of teachers eligible for transfer shall be displayed and for filling in them their preference option, time of four days be given. Thereafter transfers of special cadre teacher part-1 be made.*

4.2.2 *Special cadre part-1 Teachers will be given transfer only on their request. The teachers who are in Special Cadre teachers list, seeking no transfer, but his name is included in the list of eligible teacher for transfer, then he shall submit self declaration as per abstract 3.*

4.2.3 *The preference option for request transfer from Special Cadre shall be as per serial and as mentioned in the above definition Special cadre teacher.*

4.2.4 *In a special cadre, if number of employees seek transfer,*

taking into consideration their seniority, senior most employee will be firstly entitled for transfer.

4.2.5 *If seniority is equal, then employee is senior in age, will be given transfer.*

4.2.6 *List of teachers as per preference option in this cadre will be prepared. On the basis of this list, while effecting transfer, taking into consideration the preference of teacher, the school wherein teacher eligible for transfer is available, in the said school as per reference transfer will be made. If one of the Special Cadre teacher is not given transfer as per his preference option in any of the school (for want teacher not eligible transfer), then his transfer from Special cadre part 1 will not be effected. However, if he has given his consent for transfer under Special cadre part 1, and the options given were not available, so also if such teacher is eligible for transfer in subsequent cadre, then in respective stage, such teacher will participate in the transfer process.*

4.2.7 *On taking advantage of transfer under Special cadre part 1, concerned teacher will not be entitled to make an application for transfer for thee years.*

4.2.8 *In order to treat in special cadre part 1, it is necessary for the concerned teacher to submit online UD-ID certificate as to his physical disability, with application from the competent authority, Public Heälth Department, as per Government Resolution No.Apravi/2018/pra.kra.46/ Arogya-6 dated 14.9.2018. In regard to such application and physical disability certificate, three member committee consisting of the concerned Block Development Officer, Block Education Officer and Taluka Health Officer, will take decision.*

4.3 Stage no.3 transfers of Special cadre teacher part 2.

4.3.1 *On completion of process as per stage No.2, revised list of vacant posts shall be declared and Special Cadre part 2 teachers shall given four days time to submit their preference option. Thereafter transfers of Special cadre teacher part 2 will be made.*

4.3.2 *The teachers who are covered in Special Cadre Part 2, they shall submit self declaration certificate signed by both in specimen given in abstract 4.*

4.3.3 *IF both are Zila Parishad teachers, then one of them is entitled to make application under this cadre.*

4.3.4 *As stated above on coming husband wife together, the procedure as stated in this Government resolution for transfer of concerned employee will be made applicable. As per this provision, on completion of service for transfer of concerned, while making subsequent transfer, as stated*

above, by treating them as one unit, appointment will be given. Alternatively a place where two posts are vacant, otherwise if two posts vacant within 30- kms radius, at such place or as per requests made by concerned, preferably transfers will be made. If both husband and wife are teachers in Zilla Parishad, then making their together, both will be treated as one unit. Out of them, one is eligible for transfer, then both will be treated for eligible for transfer.

4.3.5 *Block Development Officer at the taluka level will verify the certificate i,e. within 30 Kms of their companion produced by concerned teacher under Special Cadre part 2. The distance of 30 Kms will be presumed at the adjacent roads. For issuance of such certificate of 30 Kms distance, Executive Engineer, Public Works Division / Executive Engineer, Zilla Parishad, Construction will be competent officers.*

4.3.6 *On securing transfer under Special cadre part 2, no application for transfer for further three years can be made.*

4.3.7 *It is necessary that both the employees taking benefit under Special Cadre Part 2 shall be working within one district.*

4.4 Stage no.4 Transfers of teachers who are entitled for transfer.

4.4.1 *On completion of process under stage No.3, lists of revised vacant posts and teachers eligible for transfers will be declared and four days time to submit preference options shall be given to the teachers entitled for transfer Thereafter transfers of teachers who are eligible for transfers, will be made.*

4.4.2 *for this purpose, teachers who are entitled for transfer and teachers who have completed 3 years determined service in difficult area, shall make application in abstract 2.*

4.4.3 *While making transfer of teacher working in difficult area without taking into consideration his total seniority, preference shall be given to the teachers who have undergone more period of actual service in difficult area.*

4.4.4 *The service period in difficult area is similar, then one who is senior by age shall be entitled for transfer.*

4.4.5 *Transfers of Teachers who are entitled for transfer on the revised vacant posts and on the posts made vacant by transfer of other teachers, as mentioned in stage no.4, shall be made as per their preference option.*

4.4.6 *If a teacher who is entitled for transfer does not give option, then his transfer will be made by appointment on available posts.*

4.4.7 *The teachers who are entitled for transfer, shall not be given benefit of provision of husband-wife unit one.*

4.5 Stage no.5: Procedure of transfer of teacher who is eligible for transfer.

4.5.1 *One seniority list taking into consideration the service period in Zilla Parishad, will be made in respect of teachers fulfilling procedure as mentioned in stage Nos. 1, 2, 3 4 who are entitled for transfer and teachers who are eligible for transfer. List of revised vacant posts shall be declared and the remaining teachers shall be given four days time to submit their preference option. K*

4.5.2 *If seniority is similar, then teacher who is senior in age, shall be given preference for transfer.*

4.5.3 *Transfers of teachers in this lists will be made as per their preference and as per their option. But transfers of these teachers willing to go in a school wherein excluding the posts to be kept vacant in that school, on other vacant posts, their transfers will be made.*

4.5.4 *In the transfer process in any of the stage, if eligible transfers does not give preference and if the transfer is being made as above, without taking into consideration the seniority, their appointment will be made on vacant posts in difficult area.*

4.5.5 *It will be mandatory on all teachers minimum 30 or on completion of transfer process under stage No.4, to give preference on the vacant posts.*

4.5.6 *Teachers from special cadre part 1, obtains exemption from transfer and if companion of concerned teacher is entitled for transfer in other cadre, then transfer of companion will be made from eligible cadre to other cadre.*

4.6 Stage No.6: Stage for displacement teachers.

On completion of stage No.5, revised list of vacant posts shall be declared and the teachers remained from stage 5, shall be given time of four days to submit their preference option. As per stage No.5, transfers of all be made as per seniority and as per preference option. All teachers on completion of minimum 30 or transfer process of stage No.5, it will be mandatory to give option on vacant posts. The teachers not giving preference or if posts are not available as per options and if transfer is made as stated above, their appointment on transfer will be made on available vacant posts.

4.7 Stage no.7: Stage to be implemented to fill in vacant posts in difficult area.

On completion of stage no.6, if the vacant posts in difficult area remains vacant, as per point No.1.10, for filling in vacant posts in difficult area, stage No.7 will be implemented. List of teachers included in this stage shall be firstly

> *declared. (point No.2.4.1). Out of those who are eligible for transfer under Special Cadre Part-1, as also eligible for stage no.7, teachers who have shown unwillingness for transfer (as per point No.4.2.2), their transfer will not be made in this stage."*

32. The transfer of a government employee being an incidence of service and the decision thereto is a matter within the domain of the departmental Authority and the guidelines issued by the government in this regard are not legally enforceable right which flows from such guidelines to the government employee. The High Court in exercise of the jurisdiction under Article 226 of the Constitution of India shall interfere with an order where the order of transfer is vitiated by *mala-fide* or is found in complete violation of the statutory provisions for transfer. The G.R. dated 18th June 2024 lays down the procedure for transfer of the teachers in different stages. There are as many as seven stages which deal with different cadre of teachers including the Special Cadre Part-1 and the Special Cadre Part-2 teachers. The transfer of the Special Cadre Part-1 teachers provides that a list of the teachers eligible for transfer shall be prepared and the preference/options shall be taken from the teachers who are eligible for transfer. It provides that the Special Cadre Part-1 teachers shall be transferred only on their request. It further provides that the senior most teacher shall be first entitled for transfer in a Special Cadre Part-1 if there are more number of teachers seeking transfer. A similar procedure has been laid down for transfer of the Special Cadre Part-2 teachers. Clause 4.3.4 provides that the G.R. dated 18th June 2024 for transfer of the employees shall be adopted in case of the husband and wife treating them as one unit. It is also provided under clause 4.3.4 that the husband and wife both shall be treated eligible for transfer if any one of them is eligible for transfer. The transfer of teachers who are working in difficult areas are dealt with under the Stage-4. Clause 4.4.3 lays down that the seniority of a teacher working in the difficult areas shall not be a ground to entertain the request for transfer and

those teachers shall be given preference who have undergone more period of actual service in difficult area. However, this needs to be kept in mind that the transfer policy does not confer any right to the teachers. In "*S. L. Abbas*"[13], the Hon'ble Supreme Court observed that the guidelines for the posting of husband and wife at the same place do not confer upon the government employee a legally enforceable right. In "*S. L. Abbas*", the Hon'ble Supreme Court has held as under:-

> "*7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however does not confer upon the Government employee a legally enforceable right.*"

33. In Writ Petition No.8754 of 2025, there are ninety-three teachers who are joined by the Maharashtra Rajya Prathamik Shikshak Pati Patni Seva Sangh as the co-petitioners. These teachers are seeking a direction to process their intra-district transfer applications keeping in mind the couple-convenience envisaged under clause 1.9 read with clause 4.3 of the G.R. dated 18th June 2024. In Writ Petition (ST) No.24468 of 2025, there are twenty-seven teachers who are the petitioners. These teachers are also seeking a direction to process their intra-district transfer applications keeping in mind the couple-convenience envisaged under clause 1.9 read with clause 4.3 of the G.R. dated 18th June 2024. The apprehension of this group of teachers is that the policy under the G.R. dated 18th June 2024 which pertains to the Special Category Teachers is not being followed and the husband-wife teachers may not be posted within the radius of 30

13. *Union of India & Ors. v. S. L. Abbas:* (1993) 4 SCC 357.

kilometers. These writ petitions are purely speculative. There is nothing unusual or anything prescribed under the G.R. dated 18th June 2024 which is detrimental to the interest of the petitioners. The G.R. dated 18th June 2024 lays down a fair and transparent procedure which takes care of the interests of teachers posted in difficult areas and of those who are seeking couple-convenience. This is well remembered that the appointment of assistant teachers or graduate teachers is on a transferable post and their transfer or re-location from one school to another school does not result in any alteration of the service conditions to their disadvantage. This is a normal feature and incident of every government service that the graduate teachers may be transferred and they cannot claim to remain at a particular place or on a particular post. In "*E.P. Royappa*"[14], the Hon'ble Supreme Court observed that the transfer is an implied condition of service and the appointing authority has wide discretion in the matter. The Hon'ble Supreme Court further observed that the government is the best judge to decide how to distribute and utilise the services of its employees. The Hon'ble Supreme Court held as under:-

> *"It is an accepted principle that in public service transfer is an incident of service. It is also an implied condition of service and appointing authority has a wide discretion in the matter.The government is the best judge to decide how to distribute and utilise the services of its employees. However this power must be exercised honestly, bona fide and reasonably. It should be exercised in public interest. If the exercise of power is based on extraneous considerations or for achieving an alien purpose or an oblique motive it would amount to mala fide and colour-able exercise of power. Frequent transfers, without sufficient reasons to justify such transfers, cannot, but be held as mala fide. A transfer is mala fide when it is madc not for professed purpose, such as in normal course or in public or administrative interest or in the exigencies of service but for other purpose, that is to accommodate another person for undisclosed reasons. It is the basic principle of rule of law and good administration, that even administrative actions should be just and fair."*

14. *E.P. Royappa v. State of Tamil Nadu & Ors.* (1974) 4 SCC 3.

34. In view of the foregoing discussions, the following order is passed:

(i). Writ Petition No.9276 of 2025 and Interim Application No. 24313 of 2025 in Writ Petition No.6213 of 2025 are disposed of with a direction to the respondent-Authorities to follow the G.R. dated 15th February 2018 for deployment of female and male teachers who have crossed the age of 53 years and such teachers should not be deployed in the difficult areas as far as practicable.

(ii). Writ Petition No. 8754 of 2025, Writ Petition (ST) No. 24468 of 2025 and Interim Application (ST) No.20158 of 2025 in Writ Petition No. 5460 of 2025 are disposed of with a direction to the respondent-Authorities to follow the instructions under the G.R. dated 18th June 2024 as far as practicable. Interim Application Nos.10267 of 2025, 25647 of 2025, and Interim Application (ST) No.21996 of 2025 are, accordingly, disposed of.

(iii). The challenge laid to the G.R.-2024 fails and the writ petitions vide Writ Petition Nos. 5456 of 2025, 6028 of 2025, 7548 of 2025, 7552 of 2025, 8239 of 2025, 8753 of 2025, 8946 of 2025, 9977 of 2025, 10213 of 2025, 10432 of 2025, 10433 of 2025, 10470 of 2025, 10497 of 2025, 5759 of 2025, 6213 of 2025, 10321 of 2025, Writ Petition (ST) Nos. 15761 of 2025, 15782 of 2025, 13145 of 2025, 16603 of 2025 and Writ Petition (L) No.17362 of 2025 are dismissed. However, we observe that the respondent-Authorities shall not issue transfer orders after the cut-off date provided under the transfer policy, except in the administrative exigencies or under exceptional circumstances.

(iv). Contempt Petition No. 412 of 2025 is dismissed.

[MANJUSHA DESHPANDE, J.] **[CHIEF JUSTICE]**

APPENDIX-I

Appearances for the Petitioners in all the Writ Petitions:

- Mr. S.S. Pakale, Senior Advocate, with Mr. Saurabh Pakale and Mr. Nilesh Desai, Advocates for the Petitioner/s in WP/5456/2025, WP/6028/2025, WP/8239/2025, WP/8753/2025, WP/8754/2025, WP/9977/2025, WP/10213/2025, WP/10470/2025, WP/10497/ 2025, IA(ST)/20158/2025 in WP/5460/2025 and WP(ST)/ 24468/2025.
- Mr. N.V. Bandiwadekar, Senior Advocate, with Mr. Vinayak Kumbhar, Mr. Rajendra B. Khaire, i/by Ms. Ashwini N. Bandiwadekar, Advocates for the Petitioner/s in WP/15761/2025 and WP(ST)/15782/2025.
- Mr. Niranjan Bhavake with Ms. Drishti Madhani, Ms. Swamini Thakur, Mr. Anurag Ramekar, Advocates, i/b Bhavake & Associate, for the Petitioner in WP(ST)/16603/2025.
- Mr. Balaji Shinde for the petitioner in WPST/13145/2025, WP/5759/2025 and CP/412/2025.
- Mr. Shivkumar K. Mathpati, Advocate for the Petitioner in WP/6213/2025.
- Mr. Sanjeev P. Kadam, Senior Advocate, with Mr. Prashant Raul, Mr. Harsh Khot and Mr. Suraj Mhadgut, i/by Ms. Varsha M. Thorat, Advocates for the Petitioner/s in WP/7548/2025, WP/7552/2025, WP/8946/2025, WP/10432/2025 and WP/10433/2025.
- Ms. Preeti Walimbe with Ms. Vaishnavi Nagargoje, Advocates for the Petitioner in WP/9276/2025.
- Mr. Balaji Shinde, Advocates for the Petitioner in WP/10321/2025.
- Mr. Sunil Gosavi, for the Applicant in IAST/25647/2 in WP/5456/2025.

Appearances for the Respondents in all the Writ Petitions:

- Mr. Rui Rodrigues a/w Ms. Gargi Warunjikar & Mr. Sagar Ambedkar, for Respondent No.1-UOI in WP (ST)/16603/2025 and CP/412/2025.
- Mr. Rui Rodrigues with Mr. Vinit Jain and Mr. Gaurav Mhatre, Advocates for the Respondent-UOI in WP/8239/2025 and WP/8753/2025.
- Mr. Ashwin R. Kapadnis, Advocate for the Respondent - ZP, Pune in WP/5456/2025, WP(ST)/13145/2025, WP/5759/2025, WP/8239/ 2025, WP/8753/2025, WP/8754/2025, WP/9977/2025, WP/10213/2025, IA(ST)/20158 in WP/5460/2025 and WP(ST)/24468/2025.
- Ms. Priyanka Chavan, Advocate for Respondent Nos.5 and 6 – ZP, Solapur in WP/5456/2025.
- Mr. Ajit M. Savagave, Advocate for Respondent Nos.5 and 6 in WP/6028/2025 and for the Respondent-ZP, Palghar & CEO in WP/5456/2025.
- Mr. Shrishail Sakhare, Advocate for Respondent Nos.15 and 16 in WP/8754/2025 and for Respondent No.3 in WP/9276/202
- Mr. C.G. Gavnekar a/w Mr. Ashutosh Gavnekar & Mr. Rohit Parab for the

respondent – Z.P. Raigad.

- Mr. Shrikant Dinkar Patil for the Respondent Nos.8 and 9-ZP Ahilyanagar in WP/8754/2025.

Appearances for the State of Maharashtra in WP/5456/2025, WP(ST)/13145/2025 with CP/412/2025, WP/5759/2025, WP/6213/2025, WP(ST)/15761/2025, WP/6028/2025, WP(ST)/15782/2025 and WP(ST)/16603/2025:

- Mr. P. P. Kakade, Additional Government Pleader with Mr. S.B. Kalel, Assistant Government Pleader for the the Respondent Nos.1 to 4.
- Mr. A.I. Patel, Additional Government Pleader with Mr. Kushal Amin, 'B' Panel Counsel for the Respondent Nos.1 to 4.
- Mr. B.V. Samant, Additional Government Pleader with Mr. V.G. Badgujar, Assistant Government Pleader for the the Respondent Nos.1 to 4.
- Mr. O. A. Chandurkar, Additional Government Pleader with Mrs. G.R. Raghuwanshi, Assistant Government Pleader for the Respondent Nos.1 to 4.
- Ms. N. M. Mehra, Assistant Government Pleader for the Respondent the Respondent Nos.1 to 4.
- Ms. D. S. Deshmukh, Assistant Government Pleader for the Respondent Nos.1 to 4.
- Mr. Sachit Bhogale 'B' Panel Counsel for the Respondent-State of Maharashtra.
- Mrs. V.R. Raje, Additional Government Pleader for the Respondent Nos.1, 2 & 4-State.

Appearances for the State of Maharashtra in WP/8239/2025, WP/8753/2025, WP/8754/2025, WP/7548/2025, WP/7552/2025, WP/8946/2025, WP/8946/ 2025, WP/10470/2025, WP/8946/2025, WP/10470/2025, WP(ST)/24468/2025, WP/9276/2025, IA(ST)/20158/2025 in WP/5460/2025, WP/9977/2025, WP/10321/2025, WP/10432/2025, WP/10497/2025 and WP/10433/2025.

- Mr. P.P. Kakade, Additional Government Pleader with Ms. Nisha M. Mehra, Assistant Government Pleader for Respondent Nos.1 to 5 – State of Maharashtra in WP/8239/2025, WP/8753/2025 and WP/8754/2025.
- Ms. P.N. Diwan, Assistant Government Pleader for Respondent Nos.1, 2 and 4 in WP/7548/2025 and WP/7552/2025.
- Mr. A.I. Patel, Additional Government Pleader with S.H. Kankal, AGP for Respondent Nos.1, 2 and 4, for the Respondent-State of Maharashtra in WP/8946/2025
- Mr. A.I. Patel, Additional Government Pleader with Mr. K.S. Thorat, Assistant Government Pleader for the Respondent Nos.1 to 4-State of Maharashtra in WP/8946/2025 and WP/10470/2025.

- Mr. A.I. Patel, Additional Government Pleader with Ms. P.B. Chavan Assistant Government Pleader for Respondent Nos.1 to 3-State of Maharashtra in WP/8946/2025, WP/1043210470/2025 and WP(ST)/ 24468/2025.
- Ms. V.R. Raje, Assistant Government Pleader for the Respondent-Nos. 1 and 2 - State of Maharashtra in WP/9276/2025.
- Ms P.N. Diwan, AGP for the respondent Nos.1, 2 and 4 in Writ Petition No.10213 of 2025.
- Mr. Sachit Bhogale, 'B' Panel Counsel for Respondent Nos.1 to 5 in WP/9977/2025.
- Mr. S.B. Kalel, Assistant Government Pleader for the Respondent Nos.1, 2 and 4-State of Maharashtra in WP/10433/2025.
- Mr. A.I. Patel, Addl.GP a/w Mr. S. H. Kankal, AGP for the respondent nos.1, 2 and 4.
- Mr. S.S. Pakale, Senior Advocate a/w Mr. Saurabh Pakale & Mr. Nilesh Desai, for the respondent Nos.1 to 5 in WP/10497/2025.

Appearance in ORIGINAL SIDE WRIT PETITION (LODGING) NO.17362 of 2025:

- Mr. Girish Godbole, Senior Advocate with Mr. Swanand Ganoo, Mr. Aditya N. Raut, Advocate, i/by Desai Desai Carimjee & Mulla, for the Petitioner.
- **Ms. Manisha Gawde, Assistant Government Pleader for Respondents Nos.1 to 4-State of Maharashtra.**