

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7223 OF 2025

Shri A.P. D. Jain Pathashala Throu. Its
Sec. Dr Ranjeet Gandhi And Ors. ...Petitioners
VERSUS
Secretary School Education And
Sports Dept Govt Of Maharashtra And Ors.Respondents

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 17133 OF 2025

Maharashtra Association of Minority
Educational Institutions,
Through Its President ...Petitioner
VERSUS
The State Of Maharashtra
Through The Secretary ...Respondent

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Mr. S.C. Naidu a/w. Mr. Pradeep Kumar i/b Mr. Sandeep R. Waghmare
for the Petitioner in WP/7223/25.

Mr. Milind

Ms Neha Bhide, Government Pleader a/w. A.A. Alaspurkar, AGP for
the Respondent/State in WP/7223/25.

Mr. Tushar Mahajan, Dy. Secretary, Govt. Of Maharashtra is present.

Mr. Milind Sathe, Sr. Advocate a/w. Mr. Gaurav Srivastav, Mr. S.K.
Srivastav, Ms Manorama Mohanty, Ms Malika Mondal, Ms Kavita
Srivastav Sharan i/b S.K. Srivastav & Co. for the Petitioner in
WPL/17133/25.

Ms Prachi Tatke, Addl. GP a/w. Ms Manisha Gawde, AGP for the
Respondent/State.

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**CORAM : M. S. KARNIK &
N. R. BORKAR, JJ.**

DATE : 12th JUNE, 2025

P.C.:

1. Leave to amend is granted.
2. Amendment shall be carried out within one week in Writ Petition (L) No.17133 of 2025.
3. Heard learned Senior Counsel Mr. Milind Sathe in Writ Petition (L) No.17133 of 2025 and Mr. S. C. Naidu, learned Counsel in Writ Petition No.7223 of 2025.
4. Ms. Neha Bhide, learned Government Pleader appeared on behalf of the State Government in Writ Petition No. 7223 of 2025 and requested for time to file an affidavit-in-reply.
5. Learned counsel for the Petitioners pray for interim relief which is opposed by the learned Government Pleader and learned Additional Government Pleader.
6. The issue involved in the present Petitions is as regards imposition of social reservation quota for backward classes on the Online Admission Portal for the First Year Junior College (FYJC) admissions in Minority Educational Institutions and inaction to remove the said social reservation and/or update/rectify the Online

Admission Portal in respect of in-house and management quota for FYJC admission.

7. Briefly stated, the learned counsel relied upon the provisions of Article 15(5) and Article 30 of the Constitution of India, emphasizing the right of minorities to establish and administer educational institutions.

8. Articles 15 of the Constitution reads thus :

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public

(3) Nothing in this article shall prevent the State from making any special provision for women and children. The Constitution (First Amendment) Act, 1951, made several changes to the Fundamental Rights Part of the Indian constitution. It made it clear that the right to equality does not preclude passing laws that give special consideration to society's most vulnerable groups. Article 15(3) was appropriately expanded to prevent any special provisions made by the State for the social, economic, or educational progression of any disadvantaged class of citizens from being contested based on discrimination.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes

of citizens or for the Scheduled Castes and the Scheduled Tribes.

[\(5\)](#) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.[The Constitution (Ninety-third Amendment) Act, 2005, adjoined a clause to Article 15 stating that the state has the authority to establish certain specific Provisions concerning accommodations for the progress of any sociologically and academically disadvantaged sectors of the society, as well as to the scheduled castes and scheduled tribes, with respect to their enrollment to academic institutions, including private academic institutions, whether assisted or unassisted by the state, except minority institutions.

[\(6\)](#) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,—

[\(a\)](#) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and

[\(b\)](#) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

9. Article 30 of the Constitution of India reads thus:

“30. Right of minorities to establish and administer educational institutions

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.”

10. It is then pointed out by learned Senior counsel that the respondent-State issued the GR dated 6th May 2025. The Petitioners are aggrieved by that part of clause 11 of the said GR which reads thus:

" या कोटचामधील प्रवेश क्षमतेपेक्षा कमी प्रवेश झाल्यास उर्वरित रिक्त जागा चौथी नियमित फेरी सुरू होण्यापूर्वी प्रत्यार्पित करता येतील, अल्पसंख्यांक विभागाच्या दिनांक १८/०६/२०१४ च्या शासन निर्णयातील धार्मिक व भाषिक अल्पसंख्यांक कोट्यातील प्रवेश करताना, त्या-त्या समूहातील विद्यार्थ्यांना गुणवत्तेनुसार प्रवेश द्यावेत. त्या समूहातील विद्यार्थी उपलब्ध न झाल्यास धार्मिक व भाषिक दर्जानुसार अंतर्गत बदलाप्रमाणे प्रवेश करता येतील. तदनंतरही जागा रिक्त राहिल्यास प्रत्यार्पित रिक्त जागांसाठी सामाजिक व समांतर आरक्षणाचे तत्व बिगर अल्पसंख्यांक शाळांच्या प्रवेशाप्रमाणे असेल.”

11. It is further brought to our notice clause 18 of the GR regarding the instructions as to the application of the social reservations. Clause 18.9 of the said GR makes the social reservations generally applicable to the admission process to the FYJC in all colleges.

12. Learned counsel for the Petitioners submitted that the

issue involved in present petition is no longer *res integra* in view of the decision of this Court in Writ Petition No.1726 of 2001. According to the learned counsel, the decision in ***St. Xavier's College & Anr. Vs. University of Mumbai & Ors*** in Writ Petition No.1726 of 2021 squarely applies to the present case.

13. It is then pointed out that even the High Court of Madras in a judgment of recent origin in ***The Justice Basheer Ahmed Sayeed College for Women (Autonomous) Vs. The State of Tamil Nadu and Ors.*** had an occasion to consider the question whether social reservation has to be maintained by institutions administered and managed by linguistic minorities. Their Lordships by judgment dated 29th September 2023 answered the question holding in para 16 (iii) that the social reservation need not be maintained by the educational institutions administered and managed by the linguistic minorities.

14. Ms Neha Bhide, learned GP opposed the grant of any interim relief. It is submitted that the right of the educational institutions to manage the minority educational institution is not interfered with in any manner by issuance of the impugned GR. It is submitted that the minority institutions have right to fill in the seats in accordance with the procedure prescribed and there is no

violation of any such rights. It is only at the stage when the seats remain unfilled and when the seats are surrendered, that the policy of social reservation is made applicable by the State Government to these seats which are surrendered. It is submitted that there is nothing arbitrary about the GR. It is therefore submitted that this is not a case which has an effect of violating constitutional mandate as submitted by the learned counsel for the petitioners. It is then submitted by the learned GP that sofar as the GR dated 18th June 2014 is concerned, the same has been issued streamlining the procedure for filling-up the seats which are not filled up and the same accords with the constitutional mandate.

15. We have carefully perused the decision of this Court in **St. Xavier's College vs. University of Mumbai** (supra) and the decision of the Madras High Court in **The Justice Basheer Ahmed Sayeed College for Women (Autonomous) Vs. The State of Tamil Nadu (supra)**. This Court in **St. Xavier's College** has after considering various decisions of the Supreme Court especially in **St. Stephen's College vs. University of Delhi**¹ and **Ashok Kumar Thakur vs. Union of India**² in para 17 and 18 held thus :

16. To sum up, upon insertion of Article 15(5) to the Constitution, the 'minority' educational institutions (both

1 1992(1) SCC 588

2 (2008) 6 SCC 1

*aided and unaided) are exempted from enforcement of the reservation policy of the State in respect of backward class of citizens as interpreted by the judgments of the Constitution Benches of the Apex Court in **Ashoka Kumar Thakur vs. Union of India** (supra) and **Pramati Educational and Cultural Trust vs. Union of India** (supra), whilst upholding the validity of Article 15(5) of the Constitution.*

17. *The upshot of the above discussion is that the impugned Circular to the extent it provides for reservation of seats for students of backward class for admission in minority colleges, cannot be sustained. The impugned Circular is violative of Article 30(1) read with Article 15 (5) of the Constitution of India. Hence, the following order:*

.....”

18. We find that the challenge to the decision in *St. Xavier's College vs. University of Mumbai* (supra) was dismissed by the Hon'ble Supreme Court by the order dated 13.07.2018.

19. *Prima facie*, we find substance in the submissions advanced by learned counsel for the Petitioners in view of the decisions referred to above and therefore, in our opinion a case is made out for grant of interim reliefs. Accordingly, till further orders we direct that insofar as minority educational institutions are concerned for admissions to the FYJC with which the petitions are concerned, the mandate of social reservation shall not be made applicable to any seats in the Petitioners' minority educational institutions. Consequent steps may be taken by the State Government.

20. Affidavit in reply be filed within a period of four weeks.

21. Rejoinder if any be filed within a period of two weeks thereafter.

22. List the Petitions for further consideration on 6th August 2025.

(N. R. BORKAR, J.)

(M. S. KARNIK, J.)