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

CRIMINAL REVISION APPLICATION NO. 51 OF 2026

Vishwambhar Damodar Kale And Anr. ...Applicants

Versus

The Stat Of Maharashtra ...Respondent

Mr. Nilesh Joshi a/w Mr. Viraj Nalavade, Mr. Girish Mujumdar, Ms. Sharvari Tipugade, Ms. Tanvi Lad, for the Applicant.
Mr. Kumar Saste, Addl. PP for the Respondent-State.

Coram : SHARMILA U. DESHMUKH
Date : OCTOBER 29, 2026

P. C. :

1. Revision Application has been preferred challenging the order passed below Exhibit-10 in Special Case (ACB) No. 163 of 2019 dated 12th May, 2026, by which the Special Judge rejected the discharge application.

2. Briefly stated, the Petitioner No.1 was serving as principal at the relevant time and Petitioner No.2 was serving as clerk at Madhyamik Ashram School, Yedrav Khave, Taluka Mangalwedha, District Solapur run by one Shahu Shikshan Sanstha, Pandharpur. The case of the prosecution was that the *de-facto* complainant lodged the complaint with Anti-Corruption Bureau ("**ACB**"), Solapur on 5th July, 2018, stating that his cousin had completed his tenth standard from ashram school

and required school leaving certificate for which, the Applicants demanded two bag groceries or Rs. 1000/- for issuing leave certificate. A trap was laid, but the trap failed as the bribe amount was not accepted. The ACB, Solapur then applied for sanction to lodge FIR against Petitioners with the Superintendent of Police, ACB, Pune, and accordingly, Crime No. 493 of 2018 was registered for offences punishable under Section 7 of the Prevention of Corruption Act, 1988 (for short "**PC Act**"). The charge sheet came to be submitted before the Special Judge. A discharge application was filed below Exhibit-10 on the ground that the sanctioning authority had no authority to sanction in view of Section 19(1)(c) of the PC Act, which came to be dismissed by the Special Judge, Pandharpur on 12th May, 2026 holding that the role of the accused is revealed as per charge sheet filed upon obtaining sanction to prosecute by the competent authority appointed by the State Government.

3. Learned counsel for the Applicants would point out that the appointing authority of the Applicants was the management of the school, which had refused to grant sanction. He submits that the sanction accorded by the Regional Deputy Commissioner Social Welfare, Pune Division is without any authority. He submits that it is not the invalidity of the sanction but absence of sanction on the basis of which the discharge application was filed, as there was no authority vested in

the Regional Deputy Commissioner to accord the sanction. He submits that the learned Special Judge has failed to consider this aspect and rejected the application. He draws support from the following decisions :-

(i) Sau. Jyoti Ramesh Upase vs State of Maharashtra[1]

(ii) Major M. C. Ashish Chinappa vs Central Bureau of Investigation[2]

(iii) The Karnataka Lokayuktha Police vs Lakshman Rao Peshve[3]

(iv) Anant Shesharao Hadgekar And Others vs State of Maharashtra[4]

(v) Madhuri Bharat Upadhey vs The State of Maharashtra[5]

4. *Per contra,* learned Additional PP would submit that the crime was registered for the demand of bribe and not for acceptance of bribe. He submits that an application was made for sanction to the Superintendent of Police and the sanction was accorded by the Regional Deputy Commissioner Social Welfare, Pune Division, Pune as the school in question was an ashram school. He would further submit that the Hon'ble Apex Court in the case of ***Major M. C. Ashish Chinappa*** (supra) has held that where the cognizance has already been taken against the

1 Cr. WP/630/13 decided on 21/10/13 by Nagpur High Court
2 LL 2021 SC 514
3 2025 LL (SC) 941
4 2019 (4) BomCR (Cri) 516
5 2024:BHC-AS:4192

Petitioners and the trial is in progress, the question of validity of sanction can be raised during the course of trial.

5. He would further point out that the Hon'ble Apex Court in the case of ***The Karnataka Lokayuktha Police*** (supra) has held that the issue of validity of sanction cannot be gone into as it is specifically prohibited under Section 19(3)(a) of the PC Act. He submits that in view thereof, it is open for the Applicants to question the validity of the sanction during the trial and the discharge application has been rightly rejected. He submits under Government Resolution ("**GR**"), power to grant sanction is vested in the Regional Deputy Commissioner.

6. The Applicants were appointed by the management of Shahu Shikshan Sanstha, Pandharpur, which has been established under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short "**MEPS Act**") and was governed under the MEPS Act and Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short "**MEPS Rules**"). Under the provisions of MEPS Act and Rules, in case of misconduct, it is open for the management to conduct an inquiry for the said purpose. Section 19(1)(c) of the PC Act provides that no Court shall take cognizance of an offence, alleged to have been committed by a public servant except with the previous sanction of the authority competent to remove him from his office. It is therefore only the authority which can remove the

Applicants from the employment which is the competent authority to grant the sanction. The contention of learned Additional PP that the school in question was receiving grant-in-aid does not deviate from the fact that it is the management who was competent to remove the Applicants. The management in the present case has refused to grant sanction for prosecuting the Applicants and the sanction has been obtained from the Regional Commissioner Social Welfare, Pune Division, Pune. The issue is no longer *res integra* and has been decided in the catena of judgments.

7. In ***Jyoti Ramesh Upase*** (supra), the Hon'ble Division Bench of this Court considered an identical issue of prosecution under the PC Act upon the sanction being granted by the Principal Secretary. The Hon'ble Division Bench held that the services of the Petitioner therein were governed by the MEPS Act and appointment has to be by the management, and consequently, the authority competent to remove the Petitioner from the service is the management of the school. It held that the prosecution is illegal as it is without proper sanction as required by the provisions of Section 19(1)(c) of the PC Act, and that the Principal Secretary of the School Education and Sport Department has no concern with the management of the school in which the Petitioner is working, though the school is receiving grant from the State exchequer.

8. Similarly, in the case of ***Anant Shesharao Hadgekar*** (supra), the Hon'ble Single Judge of this Court considered the issue as to the rejection of the Petitioner's application therein for discharge on the ground of lack of proper sanction under the PC Act. After considering the provisions of the MEPS Act and Rules and Section 19 of the PC Act, this Court held that the Petitioner is entitled to discharge. In that case an identical issue was raised as regards the authority who grants sanction being conferred by GR dated 5th November, 2015, which is also sought to be raised in the present case. This Court has held that the sanction accorded based on such GR cannot be said to be a valid sanction under Section 19 of the PC Act.

9. In the case of ***Madhuri Bharat Upadhey*** (supra) an identical issue was raised that the Direction of Education, who had granted the sanction, had no power of authority to grant such sanction. This Court considered an identical submission that the aspect of invalidity of sanction cannot be decided at the threshold and the matter was required to be put to trial. It held that such a question is not a question of invalidity of sanction but a clear case where the Director of Education has absolutely no power or authority to grant such sanction. It rejected the contention of learned APP on the ground that it is not a case of there being any defective sanction, but a case of no authority to grant sanction within the meaning of Section 19(1)(c) of the PC Act.

10. The decisions noted above sufficiently answers the opposition raised by the learned Additional PP. In the case of ***Major M. C. Ashish Chinappa*** (supra) , the contention which was raised that the Trial Court has taken cognizance of the offence without there being any valid sanction. The Hon'ble Apex Court held that since the cognizance has already been taken and the trial is in progress, the question of validity of sanction can be raised during trial.

11. In the case of ***The Karnataka Lokayuktha Police*** (supra), the High Court had discharged the Respondent while going into the validity of sanction, which was disapproved by the Hon'ble Apex Court. As held in the case of ***Madhuri Bharat Upadhey*** (supra), the aspect of authority not having any power to grant sanction is not a case of invalidity of sanction, and therefore, the decisions relied upon will not apply in the present case.

12. Considering the enunciation of law as discussed above, the application succeeds. The impugned order dated 12th May, 2026 passed by the learned Special Judge, Pandharpur in Special Case (ACB) No. 163 of 2019 is hereby quashed and set aside. The Applicants stand discharged.

13. Criminal Revision Application is allowed.

[SHARMILA U. DESHMUKH, J.]