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

WRIT PETITION NO. 5594 OF 2026

1. Shri. Shivaji Rangnath Patil,
Age: 48 Years, Occupation: Service,
R/o. A/P. Salshirambe, Taluka: Karad,
District: Satara-415111

2. Gramin Vikas Shikshan Sanstha,
Undale, Taluka: Karad, District: Satara-415111
Through its President/Secretary,

3. Swa. Dadasaheb Undalkar Madhyamik Va
Uccha Madhyamik Ani Tantrik Vibhag
Vidyalaya, Undale, Tal. Karad, Dist: Satara,
(Late Dadasaheb Undalkar Secondary and
Higher Secondary and Technical Department
School, Undale, Tal. Karad, Dist: Satara)
Pin Code- 415 111,
Through its Head Master ... Petitioners

V/s.

1. The State of Maharashtra,
Through the Secretary,
Skill Development, Employment and
Entrepreneurship Department, 2nd Floor,
Main Building, Madam Cama Marg,
Hutatma Rajguru Chowk, Mantralaya,
Mumbai-400 032.

2. The Directorate of Vocational Education
And Training, Maharashtra State, Mumbai,
Having its regional office at, Ghole Road,
Shivajinagar, Pune, Pin Code – 411 005,
Through its Joint Director/Deputy Director.

3. District Vocational Education and Training Officer, Satara, Having its office at, C/o. Government Technical High School, Ravivaar Peth, Opp. Shahu Stadium, Near S. T. Stand, Satara, Pin Code- 415 001. … Respondents

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Mr. Prashant Bhavake a/w. Mr. Utkarsh Desai, Mr. Shivaa Navanne and Ms. Durva Jadhav, Advocate for the Petitioners.
Mr. Vikas Mali, AGP for Respondent-State.

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CORAM : ABHAY AHUJA &
NEERAJ P. DHOTE, JJ.

DATE : 27th October, 2026

ORAL JUDGMENT : (PER ABHAY AHUJA, J.)

1. By this Petition filed under Article 226 of the Constitution of India, the Petitioners are challenging the order dated 4th September 2026 passed by the Respondent No. 2 – Joint Director whereby the proposal for individual approval to the appointment of the Petitioner No.1 made by the Petitioner No. 2 – Educational Institution in the post of Store Clerk at Petitioner No. 3 – School was rejected.

2. The Petitioners are seeking a direction to the Respondent No.3 to grant individual approval to the appointment of the Petitioner No. 1 in the post of Store Clerk. The Petitioners are also seeking a consequential direction to the Respondents to allot Sevarth ID to the Petitioner No. 1 and release the salary payable to the Petitioner No. 1 with arrears.

3. Mr. Bhavake, learned Counsel appearing for the Petitioners has submitted that, no reply would be necessary in the facts of this case as after this Court by order dated 10th August 2026 in Writ Petition No. 16112 of 2024, after hearing the Petitioners as well as the State had quashed and set aside the communication dated 30th April 2024 directing the Respondent No. 3 to consider the Petitioner's application afresh, the Respondent No. 2 – Joint Director has rejected the proposal on 4th September 2026 only on the ground that no prior permission was obtained prior to advertisement for the said post or for appointing the Petitioner No. - 1 in the post of Store Clerk which was due to the retirement of the then Store Clerk viz. Shri. A. H. Morale on 30th April 2021 by way of superannuation and that in similar facts with respect to the case of Junior Clerk, this Court has by judgment dated 22nd October 2026 in Writ Petition No. 19013 of 2024 allowed the Petition *inter-alia* relying upon the decision of a division bench of this Court in the case of ***Gramvikas Shikshan Mandal Vs. The State of Maharashtra***[1].

4. Learned AGP appearing for the Respondent – State has been unable to effectively oppose the submissions made by the learned Counsel appearing for the Petitioner.

1 Writ Petition (Stamp) No. 4493 of 2022, Order dated 26th April 2023 (Principal Seat)

5. Accordingly, Rule. Rule is made returnable forthwith and is heard finally.

6. It is not in dispute that the Petitioner No. 1 is B.A., P.G.D.C.A. and has also passed Marathi and English Typing as well as MS-CIT Examination and was appointed in the post of Store Clerk on 1st July 2021 on a probationary period of three years to fill up the vacancy of the erstwhile Store Clerk who retired on 30th April 2021.

7. It has not been disputed that due to the retirement of the then Store Clerk viz. Shri. A. H. Morale on 30th April 2021 by way of superannuation, a post of Store Clerk became vacant at the Technical Department of the Petitioner No. 3 – School. That since, the sole post of Store Clerk is sanctioned at the Technical Department of the Petitioner No. 3 – School, reservation policy was not applicable to the said post and that therefore, before proceeding to fill up such vacancy, the representative of the Petitioner No. 2 - Educational Institution approached the offices of Respondents No. 2 and 3 to ascertain whether any suitable candidates were available for the said post. It is submitted that since such information of suitable surplus Store Clerk was not available with the offices of Respondents No. 2 and 3, the Secretary of the Petitioner No. 2 – Educational Institution also made applications dated 4th May 2021 and 19th May 2021 to the Respondents

No. 2 and 3 thereby seeking permission for recruitment of the said vacant post of Store Clerk which were not responded to. It has been submitted that, in view of the obligation laid down in Section 5(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (the "MEPS Act"), it was incumbent upon the Petitioner No. 2 – Educational Institution to fill up the said post as soon as possible and that since the sole post of Store Clerk was sanctioned at the Petitioner No. 3 – School, it was not feasible for the Petitioners No. 2 and 3 to keep the said post vacant. As no suitable candidate was available for the post of Store Clerk and no reply to the proposal seeking permission for recruitment of the vacant post was received, the Petitioner No. 2 went ahead and published advertisement in the daily newspaper "Pritisangam" dated 5th June 2021 thereby advertising for the said post of Store Clerk. A perusal of said advertisement at Exhibit – C indicates that eligible candidates were directed to remain present for interview along with the original documents on 22nd June 2021. It has not been disputed that the Petitioner No. 1 who, having the requisite qualification, applied for the said post, remained present for the interview on the scheduled date and after the selection process, having been found to be suitable and meritorious was selected for the said post. That thereafter, a School Committee passed resolution in its

meeting on 23rd June 2021 resolving to appoint the Petitioner No. 1 in the post of Store Clerk at the Petitioner No. 3 – School after which, the appointing authority vide appointment order dated 24th June 2021 appointed the Petitioner No. 1 in the post of Store Clerk on probationary period of three years with effect from 1st July 2021. It has also not been disputed that the Petitioner No. 1 successfully completed the probationary period and became deemed permanent in his service as per Section 5(2) of the MEPS Act and continues to work at the said post.

8. It is submitted that thereafter, the Headmaster of the Petitioner No. 3 – School tried to submit proposal for individual approval for the aforesaid appointment of Petitioner No. 1 to the office of the Respondent No. 3 however, the office of the Respondent No. 3 refused to accept the same by orally stating that there was ban on recruitment although, the same was disputed by the Petitioners. It is submitted that finally on 18th April 2024 the office of Respondent No. 3 accepted the proposal and vide order dated 30th April 2024 the said proposal was returned without considering the same against which Writ Petition No. 16112 of 2024 came to be filed and after hearing both the parties vide order dated 10th August 2026, the order dated 30th April 2024 was quashed and set aside and Respondent No. 3 was directed to reconsider

the proposal. The Petitioners thereafter through the Headmaster of the Petitioner No. 3 – School resubmitted the proposal seeking individual approval to the said appointment of the Petitioner No. 1 after which, the Joint Director viz. the Respondent No. 2 has passed the order dated 4th September 2026 rejecting the proposal.

9. A perusal of the said order indicates that the only reason assigned is that prior permission was not obtained. As noted above, Mr. Bhavake has relied upon the decision of this Court dated 22nd October 2026 in Writ Petition No. 19013 of 2024 which has in turn relied upon the decision of a division bench of this Court in the case of *Gramvikas Shikshan Mandal Vs. The State of Maharashtra (supra)*. It is not in dispute that the Secretary of the Petitioner No. 2 – Educational Institution made applications dated 4th May 2021 and 19th May 2021 to the Respondents No. 2 and 3 seeking permission for recruitment of the vacant post of the Store Clerk however, the said Respondents No. 2 and 3 did not respond to the said applications. Under Section 5 (1) of the MEPS Act, it is incumbent upon the Petitioner No. 2 – Educational Institution to fill up the vacancy as soon as possible and since in the present case, the sole post of the Store Clerk was sanctioned at the Petitioner No. 3 – School, the Petitioners No. 2 and 3 could not have kept the said post vacant and since no suitable candidate was available

for the post of Store Clerk and no reply to the communications seeking permission for recruitment of the vacant post was received, the Petitioner No. 2 published the advertisement for the recruitment to the said post in the newspaper "Pritisangam" dated 5th June 2021 and thereafter, proceeded to conduct the interview and appoint the Petitioner No. 1 as noted above to fill up the vacant post for which in our view, no fault can be found with the Petitioners. The Petitioner No. 1 was appointed as a Store Clerk on a probationary period of three years and thereafter also confirmed and continues to work as a Store Clerk with the Petitioner No. 3 – School. The Petitioners No. 2 and 3 cannot be expected to have kept the said post vacant for such time as the State decides to take cognizance of the request of the management.

10. Although, this Court by order dated 10th August 2026 had set aside the order dated 30th April 2024 returning the proposal without considering the same and directed fresh consideration by the Respondent No. 3, it is observed that the only reason for which the proposal has been rejected is that, no prior permission was obtained which in our view is not tenable as noted above. The above view is fortified by the decision of this Court in the case of ***Shri. Sagun Bala Neman And Others Vs. The State of Maharashtra And Others***[2].

2 Writ Petition No. 19013 of 2024, Judgment dated 22nd October 2026.

11. In this view of the matter, the order of the Respondent No. 2 – Joint Director dated 4th September 2026 deserves to be quashed and set aside and is hereby quashed and set aside.

12. In our view, the appointment of the Petitioner No. 1 in the post of Store Clerk by the Petitioners No. 2 and 3 has been done in compliance with the obligations under Section 5(1) of the MEPS Act and there is no infirmity in the process followed to fill up the vacant post.

13. Accordingly, Rule is made absolute and the Petition is allowed in terms of prayer Clauses (b) and (c) which read thus:

> *"(b) By suitable writ, order or direction, this Hon'ble Court be pleased to quash and set aside the impugned order dated 4-9-2026 passed by Respondent No. 2-Joint Director whereby the proposal submitted by Petitioner Nos. 2 and 3 seeking individual approval to the appointment of the Petitioner No.1 in the post of Store Clerk at the Petitioner No.3-School is rejected and accordingly, be pleased to further direct the Respondent No. 3 to grant individual approval to the appointment of the Petitioner No.1 in the post of Store Clerk at the Petitioner No.3-School w.e.f. 1-7-2021 and to further grant individual approval to the appointment of the Petitioner No.1 as permanent Store Clerk in regular pay scale w.e.f. 1-7-2024 in view of successful completion of probationary period by the Petitioner No.1, within the*

period of four weeks or within any other period which this Hon'ble Court deems fit and accordingly, to release salary payable to Petitioner No.1 with its all arrears within 8 weeks from the date of granting such approval or any other period which this Hon'ble Court may deems fit and proper;

c] By suitable writ, order or direction, this Hon'ble Court be pleased to direct the Respondents to allot Sevarth ID to the Petitioner No.1 in the post of Store Clerk within two weeks from the date of granting approval to the Petitioner No.1 or within any other period which this Hon'ble Court deems fit and proper;

14. The Writ Petition to accordingly stand allowed and disposed as above.

15. All to act on a copy of this order duly authenticated by the Sheristedar of this Court.

(NEERAJ P. DHOTE, J.) (ABHAY AHUJA, J.)