

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

WRIT PETITION NO. 1031 OF 2026

Prashant Prabhakar Jamgunde and Anr. ... Petitioners

Versus

The State of Maharashtra & Ors. ... Respondents

ALONG WITH
WRIT PETITION NO. 1154 OF 2026

Akshay Basavraj Hotge and Anr. ... Petitioners

Versus

State of Maharashtra and Ors. ... Respondents

ALONG WITH
WRIT PETITION (STAMP) NO. 1418 OF 2026

Prakash Gurusiddhappa Rajmane and Anr. ... Petitioners

Versus

State of Maharashtra and Ors. ... Respondents

ALONG WITH
WRIT PETITION NO. 1105 OF 2026

Abhishek Rajendra Gangade And Anr. ... Petitioners

Versus

State of Maharashtra and Ors. ... Respondents

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**ALONG WITH
WRIT PETITION NO. 1151 OF 2026**

Ganesh Danayya Swami and Anr

... Petitioners

Versus

State of Maharashtra and Ors.

... Respondents

**ALONG WITH
WRIT PETITION NO. 1150 OF 2026**

Basaveshwar Nagayya Swami and Anr.

... Petitioners

Versus

State of Maharashtra and Ors.

... Respondents

**ALONG WITH
WRIT PETITION NO. 1032 OF 2026**

Anantkumar Kashinath Swami and Anr.

... Petitioners

Versus

State of Maharashtra and Ors.

... Respondents

**ALONG WITH
WRIT PETITION NO. 1034 OF 2026**

Siddharam Mahadev Kore and Anr.

... Petitioners

Versus

State of Maharashtra and Ors.

... Respondents

**ALONG WITH
WRIT PETITION NO. 1155 OF 2026**

Bebi Tukaram Kunale and Anr.

... Petitioners

Versus

State of Maharashtra and Ors.

... Respondents

**ALONG WITH
WRIT PETITION NO. 1033 OF 2026**

Santosh Vishwanath Hiremath and Anr. ... Petitioners

Versus

State of Maharashtra and Ors. ... Respondents

**ALONG WITH
WRIT PETITION NO. 1185 OF 2026**

Hanmant Baburao Patil and Anr. ... Petitioners

Versus

State of Maharashtra and Ors. ... Respondents

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Mr. Viren S. Ghatge a/w Mr. Sandeep Phatak for the Petitioners.
Ms. T.J. Kapre, AGP for the Respondent - State.

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**CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.**

DATE : 27th MARCH, 2026.

ORAL JUDGMENT : (Per Pravin S. Patil, J.)

1. All these petitions are identical in nature and involve the identical issue as to whether the communication of Deputy Director of Education, dated 28th May 2025 can be made applicable to the minority institute and secondly whether the same is applicable in the facts and circumstances of the cases of the petitioners'. As all these matters are identical, for the convenience we have taken up Writ Petition No.1031 of 2026 to decide

the controversy in the present petitions.

2. Undisputedly, the Competent Authority has recognized the petitioner No.2 as a minority institute vide its Certificate dated 7th July 2008. In pursuance of this recognition, the Management has made certain appointments in the School as per the procedure contemplated under the provisions of law. As seen from the record, in each case, the petitioner came to be appointed by following due procedure of law and after their appointments, proposal was forwarded to the Education Officer (Secondary), Zilla Parishad, Solapur for grant of approval to their appointments.

3. The Education Officer after receipt of proposals putforth the excuse that Director of Education issued Circular dated 28th May 2025, thereby directing his Officer that till the completion of process of preparing staff justification of Schools which is pending at his instance, no permission for appointment, approval or Shalarth I.D. be considered. As such, petitioner constrained to approach before this Court by way of present petition, seeking direction to decide this pending proposal on its own merit.

4. In light of this factual position, the petitioner challenges the communication dated 28th May 2025 on two grounds. Firstly, such circulars are not applicable to the petitioner's institute as the same is recognized as minority institute. Secondly, on ground that letter dated 28th May 2025 is of general nature and issued under Administrative exigency and cannot be made applicable to the cases of the petitioner as his appointment was made by the institution well before the communication dated 28th May 2025.

5. Ms. Kapre, learned AGP has strongly opposed all these petitions. According to the learned AGP, communication dated 28th May 2025 is required to be made applicable because the proposals are pending in the Office of Education Officer during the existence of said circular. The same cannot be discarded in the matter. According to learned AGP, the Education Officer (Secondary) is bound by the directions of the Commissioner (Education), and, therefore, rightly refused to accept the proposal of the petitioner in the present matter.

6. In the light of the submission made by both the parties, it would be relevant to rely upon the judgment of this Court in the case of *Canossa*

Society & Anr. Vs. Commissioner & Ors.¹ wherein this Court has held that in view of Article 30(1) of the Constitution of India, minority institute has power to establish and administer the School which includes powers of appointment of staff in School and the authorities like respondent cannot interfere in the internal administration of the society. According to him, not considering the proposal of approval of the petitioner relying upon general letter of Director of Education amounts to interference in the internal administration of society. For this purpose, he has specifically pointed out paragraph nos. 14, 16 and 21 of the judgment, which is reproduced as under :-

“14. Having considered the rival contentions, the issue which falls for consideration in the present writ petition is as to whether is permissible for the State authorities to direct a minority institution to absorb an employee rendered surplus from other schools. In other words, whether the State authorities can make an appointment of a staff member in a minority aided school and whether such an action would be valid when tested on the touchstone of the constitutional right of a minority institution.

16. The issue in regard so the rights of a minority institution was a matter of adjudication of the 11 Judges Bench of the Supreme Court in the case of T.M.A. Pai Foundation & ors. Vs. State of Karnataka, 2003(3) Bom.C.R. 603(C.B.) (S.C): (2002)8 S.C.C. 481. In a majority judgment delivered by the learned Chief Justice Mr Justice B.N. Kirpal (as his Lordship then was) it was held that the right to establish and administer an educational institution by a minority institution includes

1 2014 (3) Bom. C.R. 556

within its ambit the right to appoint staff (teaching and non-teaching). It has held that the aided institution does not become Government owned and Government controlled institution, or a departmentally run and interfere with the constitution of the governing bodies or thrusting staff without reference to the of management. The enunciation of law in the majority judgment can be seen from the following observations:

50. "The right to establish and administer broadly comprises the following rights:

- (a) to admit students;*
- (b) to set up a reasonable fee structure;*
- (c) to constitute a governing body;*
- (d) to appoint staff (teaching and non-teaching); and*
- (e) to take action if there is dereliction of duty on the part of any employees.*

54. The right to establish an educational institution can be regulated, but such regulatory measures must, in general, be to ensure the maintenance of proper academic standards, atmosphere and infrastructure (including qualified staff) and the prevention of maladministration by those in charge of management. The fixing of a rigid fee structure, dictating the formation and composition of a governing body, compulsory nomination of teachers and staff for appointment or nominating students for admissions would be unacceptable restrictions."

72.

At the same time it has to be ensured that even an aided institution does not become a Government-owned and controlled institution. Normally, the aid that is granted is relatable to the pay and allowances of the teaching staff. In addition, the management of the private aided institutions has to incur revenue and capital expenses. Such aided institutions cannot obtain that extent of autonomy in relation to management and administration as would be available to a private unaided institution but at the same time it cannot also be treated as an

educational institution departmentally run by Government or as a wholly owned and controlled Government institution and interfere with constitution of the governing bodies or thrusting the staff without reference to management."

21. Adverting to the settled legal position as discussed herein above it becomes clear that a minority educational institution has a fundamental right to establish and administer an educational institution of its choice. This right encompasses several facets one of them being a right to appoint teaching and non-teaching staff. It is held that the right to appoint teaching and non-teaching staff is an integral part of a right conferred under Article 30 of the Constitution of India namely to administer a minority educational institution. Merely because aid has been granted to a minority institution it would not lose its character as a minority institution and cease to enjoy constitutional guarantee conferred on it by virtue of the provisions of Article 30 of the Constitution of India. The grant of aid would not convert a minority institution into a departmentally conducted school or a department of the Government so that its autonomy of administration of an educational institution of its choice conferred under Article 30 of the Constitution of India would stand restricted. The State would be within its right to impose only such restrictions so as to maintain standards of education and to check any kind of maladministration. However, the autonomy in regard to day to day administration of the minority institution cannot be taken away by imposing any condition or restrictions which would take away the minority character of a minority institution and infringe the Constitutional guarantee conferred by Article 30 of the Constitution of India."

7. In the light of this legal position, the communication dated 28th May 2025 issued under Administrative emergency by Director of Education, cannot be made applicable to the minority institute. In our

considered opinion, applying the communication dated 28th May 2025 to the minority institute would amount to infringe the right given to the minority institute to run and administer the institute. Hence, in absence of any clarification of State Government, Circular dated 28th May 2025 cannot be made applicable to the petitioners institute.

8. The other submission which is made by the petitioner and the same is clear from the details which are given by the petitioner in the matter. The details of the petitioner which are given by way of chart tendered by Adv. Mr. Pathak in the matter is reproduced as under :-

Sr	Writ Petition No.	Petitioner No. 1	School (Petitioner No. 2)	Non-teaching Post	Advertisement date	Appointment date	Date of proposal	Impugned Letter	Impugned Rejection (if any)
1.	1154 /2026	Akshay Hotge	SVCS High School & Jr. College, Boramani	Lab Asst.	08.06.2024 [Page-24] Lokmat, Sanchar, Divya Marathi	14.06.2024 [Page-30]	13.08.2024 [Page-32]	28.5.2025 [Page-42]	
2.	1155 /2026	Bebi Kunale	SVCS High School & Jr. College, Boramani	Jr. Clerk	08.06.2024 [Page-24] Lokmat, Sanchar, Divya Marathi	14.06.2024 [Page-30]	13.08.2024 [Page-32]	28.5.2025 [Page-42]	
3.	1031 /2026	Prashant Jamgunde	Shri. Markandeya High School, Kumbhari	Jr. Clerk	03.06.2023 [Page-24] Lokmat, Sanchar, Divya Marathi	12.06.2023 [Page-29]	24.08.2024 [Page-31]	28.5.2025 [Page-40]	

4.	1032 /2026	Anantku mar Swami	SVCS High School & Jr. College, Bhavani Peth	Librarian	07.06.2025 [Page-24] Lokmat, Divya Marathi	01.07. 2025 [Page-31]	24.07. 2025 [Page-33]	28.5. 2025 [Page-42]	
5.	1033 /2026	Santosh Hiremath	SVCS High School & Jr. College, Bhavani Peth	Jr. Clerk	01.06.2022 [Page-21] Lokmat, Sanchar	13.06. 2022 [Page-27]	06.07. 2022 [Page-29]	28.5. 2025 [Page-33]	
6.	1150 /2026	Basavesh war Swami	SVCS High School & Jr. College, Hotgi	Lab Asst.	01.06.2022 [Page-21] Lokmat, Sanchar	13.06. 2022 [Page-27]	06.07. 2022 [Page-29]	28.5. 2025 [Page-35]	
7.	1151 / 2026	Ganesh Swami	Shri. Bhagwati Gaurimata Prashala Jr. College	Lab Asst.	07.06.2025 [Page-24] Lokmat, Sanchar, Divya Marathi	11.06.2025 [Page-30]	24.07.2025 [Page-32]	28.5.2025 [Page-40]	30.9.2025 [Page-39]
8.	1105 /2026	Abhishek Gangade	Shri. Bhagwati Gaurimata Prashala Jr. College	Jr. Clerk	03.06.2023 [Page-27] Lokmat, Sanchar, Divya Marathi	28.06. 2023 [Page-31]	07.08. 2024 [Page-33]	28.5. 2025 [Page-38]	
9.	1034 /2026	Siddharam Kore	SVCS High School & Jr. College, MIDC Road	Jr. Clerk	01.06.2022 [Page-21] Lokmat, Sanchar	13.06. 2022 [Page-27]	29.06. 2022 [Page-29]	28.5. 2025 [Page-35]	
10	1185/ 2026	Hanmant Patil	SVCS High School & Jr. College, MIDC Road	Lab Asst.	04.06.2022 [Page-21] Lokmat, Sanchar	13.06. 2022 [Page-27]	20.07. 2022 [Page-29]	28.5. 2025 [Page-33]	

11	St/ 1418 / 2026	Prakash Rajmane	SVCS High School & Jr. College, MIDC Road	Librarian	07.06.2025 [Page-25] Lokmat, Divya Marathi	28.06.2025 [Page-31]	23.07.2025 [Page-34]	28.5.2025 [Page-42]	09.10.2025 [Page-41]
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9. Perusal of this chart clearly shows that the appointments of the petitioners except Anantkumar Swami, Ganesh Swami and Prakash Rajmane, are before impugned communication dated 28th May 2025.

10. By now, it is well established principle of law for appointment in minority institute, prior permission of Education Officer is not at all necessary. Consequently, non considering the proposal of approval of petitioners or rejecting their approval by relying upon Circular dated 28th May 2025 is against the mandate of law laid down by catena of judgments of Hon'ble Supreme Court.

11. It is further pertinent to note that by the communication dated 28th May 2025, the Director of Education has directed not to allow the management to make fresh appointment as the process of preparation of staff justification of academic session 2024-25 is going on. As such, due to administrative reason directions were given that till completion of process of staff justification, appointment should not be approved. It is

nowhere stated that appointment made earlier to said communication are illegal or there is total ban on appointment as per any Government Resolution of State Government. Hence, without considering the merits of the proposal and without applying judicial mind, keeping reliance on Circular dated 28th May 2025 at the instance of Education Officer, in our opinion, is illegal and unjustified in the matter.

12. The Education Officer further failed to consider the fact that petitioners are the employees of minority institute. The general circular issued by the Authorities is not applicable to the Institute in view of judgment of this Court in case of *Canossa Society* (supra). But there is no consideration to this material aspect at the instance of Education Officer. Consequently, rejection of approval of employees namely Anantkumar Swami, Ganesh Swami and Prakash Rajmane relying on communication dated 28th May 2025 is illegal.

13. For the aforesaid reasons, the petitioners succeed in the matter and hence, we pass the following order :-

ORDER

(i) All the Writ Petitions are allowed.

(ii) The Education Officer (Secondary), Zilla Parishad is hereby directed to consider the individual proposal of the petitioners on their respective posts on its own merits by granting hearing opportunity to the petitioners.

(iii) It is further directed that the Education Officer (Secondary), Zilla Parishad, Solapur should decide all the pending proposals within a period of six weeks after the production of this order by the petitioners.

14. With this observations, the petitions stand disposed of. No order as to costs.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]