

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

WRIT PETITION NO. 10107 OF 2025

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Samson Sebastian Chirayil,
Age: 26 Years, Occupation: Service,
C/o. Margaret Sebastian Chirayil,
Room No.6, Anand Bhavan, Near St.
Francis D'Assisi High School, S.V.P. Road,
Mount Painsur, Borivali (West), Mumbai.

....Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
School Education and Sports Department,
Mantralaya, Mumbai-400 032
2. The Commissioner of
Education School Education Department,
Maharashtra State, Pune.
3. The Director of Education,
(Secondary and Higher Secondary),
Maharashtra State, Pune-1.
4. The Deputy Director of Education,
Mumbai Region, Mumbai,
Having Office at,
Jawahar Balbhawan Netaji Subhash Road,
Charni Road, Mumbai 400 004.
5. The Education Inspector (West Zone),
Brihanmumbai, Having office at,
Ismail Yusuf College Compound,
Jogeshwari (East), Mumbai.
6. Society of Franciscan Brothers,
Mount Painsur, S.V.P. Road,
Borivli (West), Mumbai -400 103,

Through President/Secretary/Trustee.

7. St. Francis D'Assisi High School
Mount Poinsur, S.V.P. Road,
Borivali (West), Mumbai -400 103,
Through its Principal/Head MistressRespondents

Mr. Prashant Bhavake, Advocate for Petitioner.
Mr. Akhil Kupade i/b Mr. Utkarsh Desai, Advocate for Respondent No. 6.
Mrs. P. N. Diwan, AGP in Sr. No. 14102/2025.
Smt. R. A. Salunkhe, AGP in Sr. No. 175.

**CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.
DATE : 20th JANUARY, 2026**

P.C. :-

1. By the present Petition, the Petitioner assails the order dated 27.07.2020 passed by the Respondent No. 5 Education Officer, rejecting the proposal for individual approval to the appointment of the Petitioner, made by Respondent No. 6 Educational Institution on the post of Junior Clerk at the Respondent No. 7 Secondary School.

2. The Petitioner has completed her graduation in B.Sc and has also passed MS-CIT Examination. Respondent No. 6, is a Christian Minority Educational Institution. Vacancy to the post of

Junior Clerk arose on account of an additional post of Junior Clerk being sanctioned by the office of Respondent No. 5 for the Academic Year 2018-2019 as per norms laid down vide G.R. dated 28.01.2019. Respondent No. 6 issued an advertisement on 11.12.2019 in the daily newspapers 'The Indian Express' and 'Loksatta' inviting application from eligible candidates for the post of Junior Clerk with the Respondent No. 7 School.

3. The Petitioner applied for the said post. In the interviews held on 23.12.2019, he was selected, upon being found to be eligible and meritorious. He was appointed as Junior Clerk by Respondent No. 7 School on 26.12.2019.

4. On 01.02.2020, the Head Master of Respondent No. 7 School submitted a proposal along with requisite documents in the office of Respondent No. 5, seeking individual approval to the appointment of the Petitioner.

5. By impugned order dated 27.07.2020, Respondent No. 5 has rejected the said proposal submitted by Respondent No. 7. Ground for rejection of the proposal is that the appointment of the

Petitioner was made before the allotment of post by the Education Director, as per the Government Resolution dated 07.03.2019.

6. The Petitioner is before this Court challenging the order dated 27.07.2020 passed by Respondent No. 5, and for a further direction to Respondent No. 5 to grant individual approval to his appointment on the post of Junior Clerk and for allotment of the Shalarth ID.

7. Respondent No. 5 has opposed the Petition by filing Affidavit-in-Reply dated 15.09.2025. Respondent No. 5 has reiterated the grounds of rejection as recorded in the order dated 27.07.2020. Reliance is placed on the Government Resolution dated 07.03.2019 and Circulars dated 06.02.2012 & 27.03.2024.

8. Mr. Prashant Bhavake, learned Advocate for the Petitioner has canvassed the following aspects :-

- (a) Respondent No. 6 is a minority institution.
- (b) Appointment of the Petitioner was on a post, which was additionally sanctioned in the staff schedule for academic year 2018-19 on wards.

(c) Additional post of Junior Clerk in the staff schedule was sanctioned by Respondent No. 5 for the Academic Year 2018-2019. Reliance is placed on 'Private Secondary School: Non-Teaching Staff: Sanchmanyata Year 2018-2019', which indicates two sanctioned posts of Junior Clerk.

(d) Reliance is placed on the order dated 10.05.2021 of Respondent No. 5, wherein the sanctioned posts of Junior Clerk are shown as four in number.

(e) Recruitment of the Petitioner was after complying with the procedure as required. Proposal complete in all respect was submitted to Respondent No. 5 for approval.

(f) Ban imposed on recruitment during COVID-19 pandemic by the Circular dated 04.05.2020, relied upon by Respondent No. 5 in the Affidavit-in-Reply, would not apply, as the appointment was made prior to 04.05.2020.

9. Per contra, Mr. Karan Thorat, learned Counsel for the State/Respondent relies on the Affidavit-in-Reply dated 15.09.2025 and the reasons given in the order dated 27.07.2020, to oppose the Petition.

10. Records placed before us and more particularly, the letter of Respondent No. 5 dated 30.08.2019 at Page No. 43 read with the order dated 10.05.2021 issued by Respondent No. 5, at Page No. 84 of the paper-book, indicate that four posts of Junior Clerk were sanctioned by Respondent No. 5 along with other posts in so far as the Respondent No. 7 School is concerned.

11. The Order dated 27.07.2020 rejects the approval to the appointment of the Petitioner on the post of Junior Clerk on the sole ground of the Petitioner's appointment being made prior to sanctioning of the non-teaching posts as required by the Government Resolution dated 27.03.2019. Respondent No. 5 has granted approval to the post of Junior Clerk (four numbers), as is evident from the letter dated 30.08.2019 of Respondent No. 5 read with the order dated 10.05.2021. Therefore, the impugned order is required to be set aside.

12. Respondent No.5, by the Affidavit-in-Reply, has made an attempt to supply further reason for passing the order dated 27.07.2020. The Respondents cannot be permitted to supplant a reason by way of an Affidavit to support the order impugned (See

Mohinder Singh Gill & Another v/s. Chief Election Commissioner, New Delhi and Others)¹.

13. For the aforesaid reasons, **this Petition is partly allowed.** The impugned order dated 27.07.2020 passed by Respondent No. 5 is quashed and set aside.

14. Respondent No. 5 is directed to grant approval to the appointment of the Petitioner on the post of Junior Clerk under the Shikshan Sevak Scheme from the date of sanction of the said post and three years thereafter, as permanent Junior Clerk by issuing a formal order within a period of 45 days. Respondent No. 4 is further directed to grant the Shalarth ID to the Petitioner within 15 days of granting approval.

15. There shall be no order as to costs.

(ABHAY J. MANTRI, J.)

(RAVINDRA V. GHUGE, J.)