

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 713 OF 2026

Ratnamala Kamal Prasoon

... Petitioner

versus

The State of Maharashtra & Ors.

... Respondents

...

Mr.Nilesh Wable for the Petitioner.

Mr.Aditya R. Deolekar, AGP

Mr.Akshay S. Pansare i/b. Mr.Sachindra B. Shetye for Respondent No.2

...

CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.

DATE : JANUARY 16, 2026

P.C:

1. Paragraph No. 14 of the judgment delivered by this Court in *Gokul Shrirang Mundhe and Others Versus State of Maharashtra and Others., (2017) 4 AIR Bom R 431*, cited by the Petitioner himself, indicates that Section 27 of the Right of Children to Free and Compulsory Education Act, 2009 provides that teachers teaching from 1st to 8th standard can be deployed for performing duties relating to elections to the local authority, the State Legislature, or Parliament, as the case may be.

2. In paragraph 15, it is recorded that there cannot be any dispute that the conduct of election is a pious obligation of the State, and every citizen is required to contribute for the conduct of free and fair elections. There is no bar for the lecturers of colleges offering voluntary services. The order of the State Election Commission deploying employees on election duties would not apply to teachers of aided and unaided colleges.

3. Paragraphs 14 and 15 in ***Gokul Shrirang Mundhe and Others (supra)***, read as under:

“14. It is true that Section 27 of the Right of Children to Free and Compulsory Education Act, 2009 suggest that teachers can be deployed for decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislature or Parliament, as the case may be. However, the provisions of the Right of Children to free and Compulsory Education Act, would be applicable to the extent of primary teachers i.e. teachers teaching from 1st to 8th standard as the said Act is applicable for primary Schools imparting elementary education from 1st to 8th standard. The same would not apply to the teachers of higher secondary or Colleges.

15. There cannot be any dispute that conduct of election is a pious obligation of the State and every citizen is required to contribute for the conduct of free and fair elections. There is no bar for the lecturers of Colleges offering voluntary services. In the case of "Election Commission of India v. St. Mary's School"

((2008) 2 SCC 390: AIR 2008 SC 655) referred to supra, Order of 1995 issued by the State Election Commissioner was not the subject-matter of discussion nor in any of the judgments of the Division Bench of this Court referred to by the learned counsel it appears that the order of 1995 was a subject matter of debate. Considering the aforesaid, it would not be within the powers of the Respondents to requisition the teachers of the aided/unaided Colleges for the purpose of election relying upon Order of 1995 issued by the State Election Commission. As it is held that the said order is not applicable to the teachers of aided/unaided Colleges and they do not come within the purview of clause (2) of the said Order, needless to state the other clauses with regard to punishment etc. would also not apply to them. It appears that the elections are already over. As the order of 1995 stands today, it will have to be held that the services of the teachers of the Colleges cannot be requisitioned for the election of the Panchayats and Municipalities. As we have held that the order of 1995 would not empower the Respondents to requisition the services of the staff of private aided and unaided Colleges for the elections of Panchayats and Municipalities. The other prayers would not survive.”

4. The Petitioner admittedly is teaching Standard IV students, which would fall within the category of primary teachers teaching from 1st to 8th standard. Section 159 of the Representation of the People Act, 1951 is canvassed. However, the same would not apply to the present case, as the Petitioner is admittedly teaching Standard IV students in a primary school and is covered by the judgment in ***Gokul Shrirang Mundhe & Ors. (supra)***.

5. In view of the above, **the Writ Petition is dismissed.**

(ABHAY J.MANTRI, J.)

(RAVINDRA V. GHUGE, J.)