



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**Writ Petition No.5841/2025**

- 1) Adarsh Shikshan Sanstha, Savari (Jawahar Nagar),  
Tah. and District Bhandara, through its Secretary.
- 2) Manoharbhai Patel High School, Deori,  
Tah. Deori, District Gondia, through its Head master.
- 3) Nitin Pravin Pendor, Aged about 29 years, Occ-Service,  
C/o. Manoharbhai Patel High School, Deori,  
Tah. Deori District Gondia. .... Petitioners.

Versus

- 1) The Education Officer (Secondary), Zilla Parishad, Gondia.
- 2) The Deputy Director of Education, (Amended as per order dated 20-02-2026)  
Nagpur Division, Nagpur. .... Respondents.

**Writ Petition No.5842/2025**

- 1) Adarsh Shikshan Sanstha, Savari (Jawahar Nagar),  
Tah. and District Bhandara, through its Secretary.
- 2) Manoharbhai Patel High School, Deori,  
Tah. Deori, District Gondia, through its Head master.
- 3) Gajanan Narayanrao Sakharkar, Aged about 30 years,  
Occ-Service as Junior Clerk, C/o. Manoharbhai Patel High School, Deori,  
Tah. Deori District Gondia. .... Petitioners.

Versus

- 1) The Education Officer (Secondary), Zilla Parishad, Gondia.
- 2) The Deputy Director of Education, (Amended as per order dated 20-02-2026)  
Nagpur Division, Nagpur. .... Respondents.

**Writ Petition No.5849/2025**

- 1) Adarsh Shikshan Sanstha, Savari (Jawahar Nagar),  
Tah. and District Bhandara, through its Secretary.
- 2) Manoharbhai Patel High School, Deori,  
Tah. Deori, District Gondia, through its Head master.
- 3) Amogh Anandrao Satdeve, Aged about 30 years,  
Occ-Service as Laboratory Assistant,

C/o. Manoharbai Patel High School, Deori,  
Tah. Deori District Gondia.

.... Petitioners.

Versus

- 1) The Education Officer (Secondary), Zilla Parishad, Gondia.
  - 2) The Deputy Director of Education, (Amended as per order dated 20-02-2026)  
Nagpur Division, Nagpur. .... Respondents.
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- Mr. R.D. Karode, Advocate for petitioners.
  - Mr. Futane, AGP for resp. nos.1 and 2.
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**CORAM : Smt. M.S. Jawalkar and Nandesh S. Deshpande, JJ.**

**DATE : 16-04-2026.**

**Oral Judgment** (per : Nandesh S. Deshpande, J.)

**Rule.** Rule made returnable forthwith. Heard finally with the consent of parties.

2. The present petitions challenge orders dated 11.02.2025 and 22.05.2025 passed by the Education Officer, Zilla Parishad, Gondia, as well as the subsequent order dated 08.01.2026 issued by the same authority. The petition further seeks a direction to the respondent—Education Officer to grant approval to the appointment of Petitioner No. 3 in all the respective petitions to the post of Librarian, Junior Clerk and Laboratory Assistant respectively.

3. The facts, as can be gathered from the petition, are as under:

Petitioner No. 1 in all writ petitions is a minority educational institution which runs Petitioner No. 2 – School. In Writ

Petition No.5841/2025, on 22.07.2020, Shri Devidas Fattuji Ganthade, who was working as a Librarian in the said school, expired. Thereafter, on 27.11.2024, the school management published an advertisement in daily newspapers for filling up the said post. Subsequently, on 29.11.2024, the petitioner society issued a corrigendum to the said advertisement, correcting the qualifications mentioned in the earlier advertisement dated 27.11.2024.

4. In Writ Petition No.5842/2025, on 27.11.2024, the school management published an advertisement in daily newspapers for filling up the said post as the post of Junior Clerk is approved and sanction in the staffing pattern. Subsequently, on 29.11.2024, the petitioner society issued a corrigendum to the said advertisement, correcting the qualifications mentioned in the earlier advertisement dated 27.11.2024.

5. In Writ Petition No.5849/2025, on 27.11.2024, the school management published an advertisement in daily newspapers for filling up the post of Laboratory Assistant, as on 31-07-2019, Mr. A.P. Umare, who was working as Laboratory Assistant came to be superannuated. Subsequently, on 29.11.2024, the petitioner society issued a corrigendum to the said advertisement, correcting the qualifications mentioned in the earlier advertisement dated 27.11.2024.

6. Pursuant to the said advertisement and corrigendum, interviews for the posts of Librarian, Junior Clerk and Laboratory Assistant were conducted on 13.12.2024, in which Petitioner No. 3 in all the respective petitions came to be selected by the Selection Committee. Thereafter, on 27.12.2024, appointment orders were issued in favour of Petitioner No. 3 in all the respective petitions, appointing them to the posts of Librarian, Junior Clerk and Laboratory Assistant with effect from the specified date. Petitioner No. 3 in all the respective petitions were joined service on 01.01.2025, and on 13.01.2025, a proposal was forwarded seeking approval to the said appointment.

7. However, by order dated 11.02.2025, the office of the respondent–Education Officer rejected the said proposals on the ground that the educational qualifications mentioned in the advertisement were not in accordance with the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short, ‘MEPS Rules’).

8. We have heard the learned Counsel for the petitioners. He submits that the impugned orders are unsustainable in law. Insofar as the order dated 08.01.2026 is concerned, the same relies upon a communication issued by the Director of Education dated 28.05.2025, which has already been considered and set aside by this

Court in Writ Petition No. 8174 of 2025. In the said writ petition, this Court has categorically recorded that the said communication issued by the Director is contrary to the authoritative pronouncement of this Court in *Canossa Society and another vs Commissioner, Social Welfare, Directorate, Government of Maharashtra and others*, reported in 2014 SCC OnLine Bom 536 and more particularly para 22 thereof which reads as under :

*“22. There is merit in the submissions of the learned counsel for the petitioners. In the present case by the impugned directive dated 28.05.2025 the respondent no.2 has foisted upon the petitioners the condition of absorption of surplus non-teaching staff as a prerequisite for granting approval and Shalarth ID. Admittedly, there is no consultation with petitioners-societies before such directive is imposed upon the petitioner- institutions. The respondent-authorities have also failed to take into consideration the fact that the petitioners are minority institutions exercising their right under Article 30(1) of the Constitution of India. Consequence of the impugned order issued by the respondent no.2 is that the valid exercise of right by the petitioners-minority institutions to recruit non-teaching staff as per the Government Resolution dated 04.04.2025 is being interfered with, coupled with a consequence that such recruitment would be stalled indefinitely. In our considered opinion it is impermissible for respondent nos. 1 and 2 to resort to such an action of imposing condition of absorption of surplus staff on the petitioner-institutions as it directly infringes the fundamental right guaranteed under Article 30 (1) of the Constitution of India conferred on the petitioners-institutions to administer and establish their*

*educational institutions. The State authorities cannot indirectly do an act which cannot directly be done. In other words, when the State has no authority to make appointment of teaching and non-teaching staff in respect of a minority institution, even if aid has been granted, such action of making an appointment cannot be taken by directing absorption of a surplus employee. This is nothing but, making appointment of a staff member in a minority institution. The law confers no such authority and power with the State Government to thrust an employee rendered surplus in other schools to be absorbed by a minority institution. Rule 25 A of the Maharashtra Employees of Private Schools (Conditions of Services) Rules cannot be made applicable to appoint surplus staff in a minority institution unless the minority institution is consulted and concurs for such an appointment. We, therefore have no hesitation to conclude that the impugned communication dated 28.05.2025 issued by respondent no.2 is wholly arbitrary and illegal as the same infringes on the petitioners right guaranteed under Article 30 (1) of the Constitution of India.”*

Learned Counsel for the petitioners prays for grant of the same reliefs in all the writ petitions.

9. *Per contra*, the learned AGP opposes the contentions advanced and supports the impugned orders.

10. We have perused the impugned communications along with the entire record of the case. As can be seen from the impugned communication dated 11.02.2025, the only ground mentioned for rejection is that the advertisement does not specify the essential

qualifications as required under the MEPS Rules. However, from the corrigendum placed on record by the petitioners, it is amply clear that the eligibility criteria prescribed under the MEPS Act and Rules have been duly complied with.

11. Insofar as the second communication dated 08.01.2026 is concerned, as already observed by us in the aforesaid writ petitions, the letter dated 28.05.2025 is in direct contradiction with the judgment of this Court referred to hereinabove. In view of the above, in our considered opinion, the impugned orders in all the petitions cannot withstand judicial scrutiny. The petitions, therefore, deserve to be allowed and is accordingly allowed.

### **ORDER**

- (i) Writ petitions are allowed.
- (ii) The orders dated 11.02.2025, 22-05-2025 and the order dated 08.01.2026 are hereby quashed and set aside to the extent they relate to the petitioners.
- (iii) Respondent No. 1 – Education Officer is directed to grant approval to the appointment of Petitioner No. 3 in all the petitions to the posts of Librarian, Junior Clerk and Laboratory Assistant, in accordance with law.
- (iv) Respondent No. 2 is directed to include the names of Petitioner No.3 in all the petitions in the Shalarth Pranali, allot a Shalarth

ID in their names, and release all consequential service benefits attached to their respective posts.

- (v) The petitions are allowed and disposed of in the aforesaid terms.

12. Rule is made absolute in all the petitions. No costs.

(Nandesh S. Deshpande, J.)

(Smt. M.S. Jawalkar J.)