



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 8256 OF 2025

1. Mahatma Gandhi Education Society,
Wadegaon, Tq. Balapur, Distt.
Akola, through it's Secretary.
2. Mustafa Kamar Urdu High School
Sangrampur, Tq. Sangrampur, Distt.
Buldhana, through it's Headmaster.
3. Syed Faisal Syed Ali,
Aged about 29 years, Occ. Service,
R/o. Mujawarpura, Patur, Tq. Patur,
Distt. Akola.

...PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
General Administration
Department, Mantralaya,
Mumbai- 32.
2. The Deputy Director of Education,
Amravati Division, Amravati.
3. The Education Officer (Secondary)
Zilla Parishad, Buldhana.
4. Imran Ul Haq Abdul Razzak,
Aged Major, Occ. Private,
R/o. Akola Naka, Near Madarsa,
Baherul, Ulum, Balapur, Distt. Akola.

5. The State of Maharashtra,
Through its Secretary,
Education and Sports Department,
Mantralaya, Mumbai - 32.

...RESPONDENTS

Shri R.D. Karode, Advocate for petitioners
Shri N.R. Patil, AGP for respondent/State
Shri A.S. Dhore, Advocate for respondent No.4

CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

RESERVED ON : 06.03.2026
PRONOUNCED ON : 11.03.2026

JUDGMENT (PER : NANDESH S. DESHPANDE, J.)

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

2. This petition challenges the order dated 01.12.2025, by which the respondent No. 2 - the Deputy Director of Education, Amravati Division, Amravati, has cancelled the approval granted to the petitioner by relying on the Government Resolution dated 22.08.2005.

3. The facts, as emerging from the petition, are as under:

On 28.06.2012, the father of the petitioner No. 3, Sayed Ali Sayed Ismail, was appointed on the post of Peon in the petitioner

No.2 - School, which is run by petitioner No. 1, a Minority Educational Institution. During the service, since the said father of petitioner No. 3 was declared medically unfit for discharging his duties as he was suffering from Tuberculosis (T.B.). On 01.10.2016 he applied for grant of retirement on medical grounds. Thereafter on 26.12.2016, the petitioner No. 1 - Society relieved the father of petitioner No.3 by permitting him to retire on medical grounds. On 20.01.2017 the petitioner No. 3 applied for being appointed on compassionate basis, and on 31.01.2017 he was accordingly appointed on the post of Peon. Thereafter, on 02.11.2017, respondent No. 3 herein, i.e., the Education Officer granted approval to the appointment of the petitioner, pursuant to which, on 05.12.2023, the name of the petitioner No. 3 was also included in the Shalarth Pranali.

4. In the backdrop of these facts, the respondent No. 4, who is totally a stranger and therefore unconnected with the affairs of the respondent Nos. 1 and 2, filed complaints on 03.01.2025 and 17.02.2025 with the Deputy Director of Education, and prayed for cancellation of approval granted to petitioner No. 3. Thereafter, on 01.12.2025 respondent No. 2 by relying upon the Government

Resolution dated 22.08.2025, set aside the approval. It is this setting aside of approval which is challenged in the present petition.

5. We have heard Shri R.D. Karode, the learned Counsel for the petitioners, as also Shri N.R. Patil, the learned Assistant Government Pleader for respondent Nos. 1 to 3 and 5, and Shri A.S. Dhore, the learned Counsel for respondent No. 4.

6. Shri R.D. Karode, learned Counsel for the petitioners, by taking us through the said facts, stated that the action of the respondent No. 2 is totally against the scheme of appointments on compassionate basis and submitted that the said authority ought to have considered the scope and object of such appointments on the compassionate basis being only to render financial assistance to the family of the deceased employee. It is the further submission of the learned Counsel for the petitioner that the roster point is not applicable in the case of a compassionate appointment, since it is not a new appointment, and the resolution on which reliance is placed by the authority does not, *ipso facto*, apply to the petitioner No. 1 institution, it being a Minority Education Institution. He further relied on the judgment of the Maharashtra Administrative

Tribunal at Mumbai in Original Application No. 1006/2015 (Amol G. Deore and another Vs. Additional Commissioner of Sales Tax and others), in which it was held that a compassionate appointment has to be granted to an employee who is declared medically unfit. It is his further submission that the judgment of the Tribunal referred supra has been confirmed by this Court. He further submits that reliance placed on clause 2(1) of the Government Resolution dated 22.08.2005 is therefore entirely misplaced, since this Court, in the case of *Additional Commissioner of Sales Tax vs. Amol Deore*, reported in *2019 (2) ALL MR 753 (BOM)*, while confirming the judgment of the Maharashtra Administrative Tribunal, has quashed and set aside Clause 2 (1) of the Government Reservation dated 22.08.2005.

7. Per contra, the learned Assistant Government Pleader, along with Shri Dhore, learned Counsel for the respondent No.4, while supporting the impugned order submit that no fault can be found with the said order since it is passed after hearing all the parties concerned and a finding has been recorded pursuant thereto. They further submit that, even though the petitioner No. 3 was

appointed in place of his father, who was medically declared unfit, that cannot be said to be conferring any right on the said employee.

8. We have perused the contentions canvassed by the learned Counsel for the respective parties and with their assistance, have also gone through the record. As can be seen from the impugned order, the fact that the petitioner No. 3 was appointed in place of his father, who was medically declared unfit, is admitted. It is also an admitted fact on record that his appointment to the post of Peon has been approved by the Education Officer. As per the Government Resolution dated 18.02.2025, the State of Maharashtra has framed a policy regarding the consideration of complaints filed by a third person/stranger, and for the methodology of dealing with it. The said Government Resolution, after taking into consideration the judgment of this Court at the Aurangabad Bench in Writ Petition No. 2492/2024, has stated that the complaints/objections/applications obtained from a third person are not to be taken cognizance of or considered by the authorities. It is further stated that, while undergoing such exercise, the concerned authorities are supposed to take care and caution that no order of the Court is being flouted with. In that view, the

complaint made by responded No. 4, being a stranger, could not have been entertained. As can be seen from the impugned order dated 01.12.2025, the reliance placed on the Government Resolution dated 22.08.2005 is entirely misconceived since, as rightly submitted by the learned Counsel for the petitioners, the said clause has been struck down by this Court in judgment referred to supra. In that view of the matter, we see no impediment in quashing the impugned order, it being passed totally in ignorance of the Government Resolution dated 18.02.2025. We therefore pass the following order:

ORDER

- i) Writ Petition is allowed.
- ii) The impugned order dated 01.12.2025, passed by the Respondent No.2 - Deputy Director of Education, Amravati Division, Amravati, is quashed and set aside.

9. The Writ Petition is disposed of in the above terms. Rule is made absolute.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)

Jayashree..