



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 1485 OF 2026**

**PETITIONERS :-**

1. Shahbabu Urdu Education Society, Patur, Tq. Patur, District Akola (Reg. No.B-79/59 U/S SR Act 1860 and Reg. No.F-67-Akola U/s BPT Act, 1950) having office at Shahbabu High School, Near Old Bus Stand, Patur, District Akola – 444 501 (Minority Institution) through its Secretary – Syed Ishaque Syed Nabi.
2. Shahbabu Urdu High School, Alegaon, Tq. Patur, dist. Akola, through Headmaster.
3. Mohammad Sameer Mohammad Saleem, aged about 34 years, Occ. Service as Junior Clerk, C/o Mohd. Saleem, Killa Ward 12, Patur, Tq. Patur, Dist. Akola-444 501.

**-Versus-**

**RESPONDENTS :-**

1. The Deputy Director of Education, Amravati Division, Amravati.
2. The Education Officer (Secondary), Zilla Parishad, Akola.
3. The Director of Education, Maharashtra State, Central Building, Pune, Dist. Pune.
4. Superintendent of Pay and Provident Unit (Secondary), office at District Education and Training Sanstha Premises, Near Santoshi Mata Mandir, Akola, Dist. Akola.

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Mr. Ram D. Karode, Adv. for the petitioners.  
Mr. N.R.Patil, AGP for the respondent Nos.1 to 4.  
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**CORAM : MRS. M. S. JAWALKAR AND  
NANDESH S. DESHPANDE, JJ.**

**DATE ON RESERVING THE JUDGMENT : 13/03/2026**  
**DATE ON PRONOUNCING THE JUDGMENT : 16/03/2026**

**COMMON JUDGMENT : (Per – M. S. JAWALKAR, J.)**

1. Heard.
2. **Rule.** Rule made returnable forthwith. The petition is taken up for final hearing at the stage of admission by consent of the parties.
3. The petition takes exception to the order dated 10/02/2026 issued by the respondent No.4-Superintendent of Pay and Provident Unit (Secondary) and for further direction to include the name of the petitioner No.3 in the Shalarth Pranali and to allot Shalarth ID.
4. We have heard Mr. Ram Karode, learned counsel for the petitioners and Mr. N. R. Patil, learned Assistant Government Pleader for the respondents.

5. By taking us through the impugned order dated 10/02/2026, learned counsel for the petitioners submits that only reason given for non-inclusion of the name of petitioner in Shalarth ID in the said communication is that till the employees who have been declared surplus have been absorbed, Shalarth ID could not be granted.

6. Learned counsel for the petitioners contends that the petitioner No.1 being a minority institution, the said reason is totally misconceived. He places reliance on a judgment of this Court reported in *2016(2) Mh.L.J. 212 (Young Boys Educational and Industrial Circle Vs. State of Maharashtra and others)*, as also *judgment reported in 2015(3) ALL MR 575 (The Canossa Society and another Vs. The Commissioner Social Welfare and others)*. By placing reliance on the said judgment, learned counsel submits that as far as petitioner No.1 is concerned the direction regarding absorbing the surplus staff is not maintainable.

7. We have perused the said judgments as also considered the contentions canvassed by the learned counsel for the parties. The issue seems to be covered by the authorities i.e. co-ordinate Division Benches of this Court. The Division Bench of this Court by exhaustively enunciating the law in the case of *Canossa Society and*

***another*** (*supra*) that a minority educational institution cannot be made to absorb the surplus staff.

8. The controversy in the present petition is squarely covered by an authoritative pronouncement of this court in ***Canossa Society and another vs Commissioner, Social Welfare, Directorate, Government of Maharashtra and Others*** (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 17.6.2011 the respondent nos. 1 to 3 have foisted upon the petitioners the appointment of the respondent no.4 who is rendered a surplus employee in view of the closure of a school situate in Nanded District. Admittedly, there is no consultation with petitioner no.2-school before such appointment is thrust upon the petitioner no.2-school. The respondent-authorities have also failed to take into consideration the fact that there is no vacancy as urged by the petitioners before the authorities, in view of the appointment of Mrs.Jyotsna Thorat who came to be appointed on 30.9.2006 and whose appointment was approved on 18.8.2007. Consequence of the impugned order issued by the respondent no.1 is that the approved appointment of Mrs.Jyotsna Thorat as validly done by the petitioner No.2-institution in exercise of its right to administer a minority educational institution is being interfered, coupled with a consequence that such valid appointment would be required to be cancelled. In our considered opinion it is impermissible for respondent nos. 1 to 3 to resort to such an action of foisting appointment of respondent no.4 on the petitioner no.1-*

*institution as it directly infringes the fundamental right guaranteed under Article 30 (1) of the Constitution of India conferred on the petitioner no.2 institution to administer and establish wp1049.12.doc petitioner no.2 school. 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 order dated 17.6.2011 issued bay respondent no.1 is wholly arbitrary and illegal as the same infringes on the petitioner's right guaranteed under Article 30 (1) of the Constitution of India."*

9. The view has been followed in ***Young Boys Education and Industrial Circle vs. State of Maharashtra and others (2016 (2) Mh.L.J. 212.***

10. In view of the citations stated supra, we are of the considered opinion that the impugned communications are liable to be quashed and set aside. We, therefore, pass the following order:

**ORDER**

- (i) The Writ Petition is allowed.
  - (ii) The impugned communication dated dated 10/02/2026 passed by the respondent No.4 - Superintendent of Pay and Provident Unit (Secondary), Akola as well as communication dated 28/05/2025 to the extent of petitioner are hereby quashed and set aside.
  - (iii) It is hereby directed that the respondent No.1-Deputy Director of Education, Amravati Division, Amravati shall include the name of petitioner No.3-Mohammad Sameer Mohammad Saleem in the Shalarth Pranali and allot the Shalarth ID in his name and grant him all consequential benefits ensuing therefrom.
11. Rule is made absolute in the above terms. No costs.

**(NANDESH S. DESHPANDE, J.)****(SMT. M.S. JAWALKAR, J.)**