



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

WRIT PETITION NO. 3004 OF 2026

[The Sikh Education Society, Bezon Bagh, Nagpur through its General Secretary and ors. **vs.**
Union of India, through its Secretary, Department of Home Affairs (MHA), New Delhi
and ors.]

Office Notes, Office Memoranda
of Coram, Appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. P B. Patil with Mr. V. B. Rathi, Advocates for the petitioners
Mr. S. A. Chaudhari, Advocate for Union of India/respondent
no. 1

CORAM : **ANIL L. PANSARE AND**
NIVEDITA P. MEHTA, JJ.

DATE : **10-04-2026.**

Heard.

2. Leave to correct date of order in prayer clause
(c) is granted.

3. The challenge is to order dated 5-4-2026 and
6-4-2026 issued by respondent no. 4 – Charge Officer
appointed under the provisions of the Census Act, 1948
(for short ‘the Act of 1948’) directing petitioners to take
census work immediately.

4. Our attention is invited to the order
impugned, which indicates that in terms of sub-section
(4) of Section 4 of the Act of 1948 read with Rule 3 of
Census Rules, 1990 (for short ‘the Rules of 1990’),
respondent no. 4 has appointed petitioners as Census

2

Officers. Sub-section (4) of Section 4 of the Act of 1948 reads as under :-

“(4) The State government may delegate to such authority as it thinks fit the power of appointing census-officers conferred by sub-section (2).”

5. As could be seen, what is provided under sub-section (4) of Section 4 is that the State Government may delegate the powers of appointing census-officers conferred by sub-section (2). In the present case, the order delegating powers is not before us. What is evident, however, is that respondent no. 4 has issued order in the capacity of Charge Officer. The Charge Officer is defined in clause (d) of Rule 2 of the Rules of 1990, which reads as under :-

“(d) “Charge Officer” “Additional Charge Officer” and “Sub Charge Officer” mean the census officers appointed as such under sub-section (2) of section 4 of the Act and includes Tehsildar, Mamlatdar, Block Development Officer, Chief Administrative Officer of a town, executive officer and other officers;”

Thus, the Charge Officer is census officer appointed under sub-section (2) of section 4 of the Act of 1948. In that view of the matter, respondent no. 4 is an officer appointed by the State Government under sub-section (2) of Section 4. He therefore, could not have invoked sub-section (4) to further appoint the census officers., as we did not find any power conferred upon census officer to appoint other census officer. As such, respondent no. 4 has also invoked Rule 3 of the Rules of 1990 which reads as under :

“3. Appointment of Census Officers :- The State Governments and the Union territory Administrations in order to aid the taking of the census within their States or Union territories, may appoint officers from against the category mentioned in column 2 as census officers within their jurisdictions with such designation mentioned in column 1 of the Table below.

TABLE

	Designation	Officers to be appointed
	1	2
1.	Principal Census Officer	District Collectors/ Magistrates/ Commissioners or administrative heads of Corporations or any nominated Officer.
2.	District/Additional district/Deputy district/ Sub-divisional district/ City/Additional City Census, Officer.	District Collectors/ Magistrates/ Officers assisting District Collectors/Magistrates/ Commissioner/ District Sub-divisional Officers or Revenue Divisional officers.
3.	Charge Officer/ Assistant Charge Officer/ Additional Charge Officer and Sub-Charge Officer.	Tehsildars/ Additional Tehsildars/Mamlatdars / Block Development Officer/Chief Administrative Officer of towns/ Executive Officers and other Officers
4.	Supervisor	Officers generally of a rank higher than enumerators or any person.
5.	Enumerator	Teachers, Clerks or any official or any person.”

4

6. Thus, under Rule 3, the State Governments and the Union territory Administrations are empowered to appoint officers as mentioned in the chart/table. At serial no. 3, the officers of the rank of Tehsildars/ Additional Tehsildars etc. can be appointed as Charge Officer/Additional Charge Officer etc. In that sense, we are of the view that respondent no. 4 has been appointed as Charge Officer by the State Government. The question is whether the Charge Officer can further appoint census officer by invoking sub-section (4) of Section 4 of the Act of 1948. The counsel for respondent no. 1 seeks time to take instructions. Time Granted.

7. Further, learned counsel for the petitioners has referred to the judgment of this Court in the case of ***Gokul Shrirang Mundhe and ors. Vs. State of Maharashtra and ors. [2017 SCC OnLine Bomb 10083]*** and judgment of Gujarat High Court ***in R/Letters Patent Appeal No. 244/2019 in R/Special Civil Application No. 5335/2010 dated 5-2-2019***, to contend that issue involved is covered wherein the High Courts have clarified that under the requisitioned staff for the purpose of taking census, the staff of private aided/unaided colleges is excluded. The petitioners herein are teachers and staff working in private unaided college.

8. Learned counsel for the petitioners then submits that respondent no. 4 has lodged First Information Report against staff who was appointed and

5

not joined the duty and accordingly, prayed for interim relief. He further submits that census continues for considerable long period and in such eventuality, if the persons like the petitioners are appointed for taking up census, the students undergoing education shall suffer, particularly considering the fact of ensuing university examination.

9. On the strength of submissions so made, which we will test in due course and for the reasons stated above, issue notice, returnable in two weeks.

10. Mr. S. A. Chaudhari, learned counsel waives notice for Union of India/respondent no. 1.

11. In the meantime, there shall be stay to the orders dated 5-4-2026 and 6-4-2026 passed by respondent no. 4.

(JUDGE)

(JUDGE.)

wasnik