IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5982 OF 2026

UDAY SHIVAJI JAGTAP
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Date: 2026.11.19 19:10:10 +0530

Gargoti High School and Shri Samarth Junior College, Gargoti Thr. Ex-officio Secretary and Ors. .. Petitioners

VERSUS

The State Of Maharashtra Thr. Principal Secretary School Education and Sports Dept. and Ors. ...Respondents

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Mr. Prashant Bhavake for the Petitioners.
Ms. Shruti D. Vyas, AGP a/w Ms. T.J. Kapre, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh & Shailesh P. Brahme, JJ.

Date : November 19, 2026.

P. C. :

1. By present petition, the Petitioners seek a direction to the Fit Person / Administrator of Respondent No.6 – Education Officer to complete the ongoing recruitment in Pavitra Portal in respect of the vacancies of teaching staff at the Petitioners' Secondary School and quash and set aside the impugned order dated 23rd October 2026 by which Respondent No.4 – Joint Charity Commissioner has communicated that it is open for the Petitioners to carry out the

process of recruitment through Pavitra Portal at the Government level. The same has been construed by the Petitioners as unwillingness to proceed further with the recruitment process which is at the stage of interviews of 43 selected candidates.

2. The facts of the case are that pursuant to the proceeding under Section 41D of the Maharashtra Public Trust Act, 1950 (for short "Public Trust Act"), the Joint Charity Commissioner appointed an Administrator on 12th July 2017. Thereafter, on 15th January 2025, the Trustees came to be removed and direction was given by the Joint Charity Commissioner to conduct the elections of Respondent No.6 - Trust and if the members are not available, to submit a proposal as per Section 47 of the Public Trust Act for appointment of new Managing Committee. Accordingly, the proposal has been submitted under Section 47 of the Public Trust Act, which is pending consideration.

3. As around 19 teaching posts were vacant from 2026 it was difficult to run the Petitioners' secondary school. The Administrator thereafter published an advertisement in the newspapers and on Pavitra Portal for recruitment of 15 teaching posts at Petitioners' secondary school in the month of July and August 2026. Complaints came to be filed by the rival fractions of the Trust seeking cancellation of the recruitment process. On 28th September 2026, by communication addressed to the Petitioners' secondary school, one

Ganesh Dhokale came to be appointed as Fit Person / Administrator of Respondent No.6 – Education Institution pending the decision on the application under Section 47 of the Public Trust Act. As the recruitment process which is at the stage of conducting the interviews came to be stalled by the communication dated 23rd October 2026, the present petition came to be filed.

4. Learned counsel appearing for the Petitioners has taken this Court through the orders passed by the Charity Commissioner and would submit that the Fit Person came to be appointed and under the provisions of Section 41D(o), a Fit Person is required to discharge duties and perform the functions of the Trust. He submits that accordingly power is vested in the Fit Person to conduct the recruitment process, which is at the stage of interviews. He would submit that there are 15 vacant posts and it is difficult to run the Petitioners' school. He would further tender the list of candidates who have been called for interview and would submit that the process has to be completed before 25th November 2026.

5. Learned AGP would submit that the Fit Person came to be appointed by order of 28th September 2026, who replaced the earlier Administrator, who was appointed by order dated 12th July 2026. She would further submit that there is no authority vested in the Fit Person to conduct the recruitment process and in view of the complaints filed,

by way of abundant precaution, the Fit Person has not concluded the process of recruitment. She would further submit that there is rival faction in the Trust and Respondent No.6, which is rival faction, is required to be heard before any order is passed.

6. The grievance of the present Petitioners is as regards the inaction on the part of the Fit Person to conclude the recruitment process for appointment to the 15 teaching vacant posts in the Petitioners' school. The MEPS Act and Rules require the vacancies to be filled immediately. By order of 12th July 2017, the Administrator had been appointed who has been continued and has been replaced by the Fit Person by order of 28th September 2026. Section 41D(4) of the Public Trust Act vests the Fit Person with the power to discharge the duties and perform the functions of the Trust. It cannot be disputed that the recruitment of the teachers to the vacant posts is the duty of the Trust and having been appointed as a Fit Person to administer the Trust, it the duty of the Fit Person to complete the recruitment process. It cannot be accepted that there was no authority, as it was the Administrator/Fit Person who had published the advertisement on the Pavitra Portal as well as in the newspapers, invited applications, and commenced the recruitment process. There is no justification thereafter to stall the recruitment process on the ground of complaints having been received. The procedure for recruitment has

started and 43 candidates have been short listed for conducting the interviews. In our view, as the process for recruitment has already been commenced under the supervision of Fit Person / Administrator, the complaints, if any, by the rival faction of the Trust can be put to rest by constituting a two member panel comprising of the Fit Person and the Education Officer (Secondary), Zilla Parishad, Kolhapur i.e. Respondent No.5 to conduct the interviews and conclude the process of recruitment. The same will ensure proper administration of the recruitment process. In our view, as Fit Person has been appointed and cause of action is qua the inaction by Fit Person, the Respondent No.6 is not required to be heard as it will expand the scope of the petition.

7. In light of the above, the petition is disposed of by directing the Education Officer (Secondary), Zilla Parishad, Kolhapur and the Fit Person appointed by order of 28th September 2026 to conduct the interviews before 25th November, 2026.

[Shailesh P. Brahme, J.] **[Sharmila U. Deshmukh, J.]**