IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2324 OF 2014

1. Mr. Hanumant Mahadev Bhosale,
   Age 44 years, Occupation: Service,
   Residing at G-3, Rambaug Building
   No.2 CHS, A Wing, Near Eye Hospital,
   Vasai Gaon – 401 201.

2. Mr. Chandrakumar Nagnath Vishwakarma,
   Age 41 years, Occupation: Service,
   Residing at Flat No.621, A-2 Building,
   Chitrawani CHS Ltd. Pimpri Pada,
   Malad (East), Mumbai – 400 097.

3. Anant Gunwantrao Thakare,
   Age 44 years, Occupation: Service,
   Residing at A/202, Chheda Complex,
   ST Stand Road,
   Nalasopara (West) 401 203. … Petitioners.

V/s.

1. All India Council for Technical Education
   New Delhi, through its Chairman,
   Having office for the purpose of
   Service of Summons at Bombay.

2. Director of Technical Education
   Elphistone Technical College Building,
   Mahapalika Marg, Fort, Mumbai.

SANJAY KASHINATH NANOSKAR
Digitally signed by SANJAY KASHINATH NANOSKAR
Date: 2023.10.30 14:57:03 +0530

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

3. Maharashtra State Board of Technical
Education, 4th Floor, Government
Polytechnic Building, 49 Kherwadi,
Mumbai – 400 051.

4. Principal,
Vidyavardhini's Bhausaheb Vartak
Polytechnic at Vasai,
Vasai Road (West),
District Thane – 401 202.

5. The Trustee,
Vidyavardhini, Vasai Road (West),
District Thane – 401 202.
A Society registered under the provisions
of the Bombay Public Trust Act.

6. Secretary,
Ministry of Higher & Technical Education,
Government of Maharashtra. … Respondents.

WITH
WRIT PETITION NO. 1860 OF 2005

1. Patil Manoj Sakharam,
Age 35 years, Occupation: Service,
Flat No.22, Vitthal Plaza Apartment,
Kasba, Baramati, District Pune - 413 102.

2. Shendge Ravindra Bhimrao,
Age 35 years, Occupation: Service,
Flat No.9, Vitthal Plaza Apartment,
Kasba, Baramati, District Pune - 413 102.

3. Jaypatre Sampat Waman,
Age 50 years, Occupation: Service,
Flat No.7, Amol Apartment,

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Vivekanand Nagar, Baramati,
District Pune - 413 102.

4. Patil Mohan Madan,
Age 46 years, Occupation: Service,
E-Type Quarter, A/p : Shivnagar,
Taluka Baramati, District Pune – 413 116.

5. Nanaware Shrirang Kedari
(Since deceased through Lrs)

5(i) Smt. Ranjana Shrirang Nanaware,
Widow of deceased, Age 52 years,
Occupation: Housewife,

5(ii) Shri. Vaibhav Shrirang Nanaware,
Son of deceased, Age 36 years,
Occupation : Service,

5(iii) Mrs. Varsha Devdatt Navale
(Married daughter of deceased)
Age 32 years, Occupation: Housewife,

5(iv) Mrs. Vrushali Abhishek Bankar
(Married daughter of deceased)
Age 29 years, Occupation: Housewife,

6. Pandhari Anjali Arun,
Age 45 years, Occupation : Service,
Flat No.A-1, Akalpit Co-Op. Housing
Society, Behind M.E.S. High School,
Baramati, District Pune – 413 102.

7. Kulkarni Balasaheb Kumarrao,
Age 35 years, Occupation : Service,
Quarter No.E-14-6, E-Type Quarter,
A/p. Shivnagar, Taluka : Baramati,
District Pune – 413 116. … Petitioners.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

V/s.

1. The State of Maharashtra
through the Secretary,
Higher and Technical Education Dept.
Mantralaya, Mumbai – 400 032.

2. The Director of Technical Education
Maharashtra State,
3, Mahapalika Marg, Post Box No.1967,
Mumbai – 400 001.

3. Joint Director of Technical Education
(Pune Region), 412, E, Bahirat Patil
Chowk, Shivaji Nagar, Pune – 411 016.

4. The Regional Officer and Member
Secretary, All India Council for Technical
Education (AICTE), 2nd Floor,
Industrial Assurance Building,
Veer Nariman Marg, Churchgate,
Mumbai – 400 020.

5. The President and Chairman of
Governing Council,
Shivnagar Vidya Prasarak Mandal,
Bungalow No.1, Silver Cross Street,
Bholabhai Desai Marg, Mumbai-26.

6. The Principal,
Shivnagar Vidya Prasarak Mandal's
Institute of Technology & Engineering,
A/p : Malegaon (Bk), Tal.: Baramati,
District: Pune – 413 115. … Respondents.

WITH
WRIT PETITION NO. 1473 OF 2014

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Jaya K. J.
Age 50 years, Having her address
at A-17, Landmark Co. Op. Housing
Society Ltd. Plot No.2-1, 2-8, Sector
14, Vashi, Navi Mumbai – 400 705. … Petitioner.

V/s.

1. ICL Education Society,
though its President,
Having its office at Nariman Point,
Mumbai.

2. Dr. Jyoti Marwah
Through its Incharge Principal
Motilal Jhunjhunwala College of
Arts, Science & Commerce, having
her office address at Sector 9-A,
Vashi, Navi Mumbai – 400 703.

3. State of Maharashtra
through the Secretary,
Department of Education
& Employment, Mantralaya,
Annexe, Mumbai – 400 032. … Respondents.

WITH
O.S. WRIT PETITION NO. 2871 OF 2003

1. Dinesh Kumar Singh
JN-2/38-A-3, Sector 9,
Vashi, Navi Mumbai – 400 703.

2. Satya Prakash Singh
Ram Surat Jangbahadur Chawl,
S. K. Kapadia State, Parasi Wadi,
Ghatkopar (W), Mumbai – 400 086.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

3. Raj Nath Singh,
Akhtar Khan Chawl, Room No.5-A,
Jamil Nagar, Bhandup (W),
Mumbai – 400 078.

4. Mrs. C. P. Talwar,
9A/15/NAV Shivneri, Vashi,
Navi Mumbai – 400 703.

5. Suresh C Singh,
Room No.485, Sector 4,
Koperkhairane,
Navi Mumbai – 400 703.

6. Mrs. Shobha N. Kulkarni,
JN-1/2/B-12, Sector 9, Vashi,
Navi Mumbai – 400 703.

7. Shri Prem Sagar Shukla,
Working at Plot No.16/17,
Sector 10-A, Vashi,
Navi Mumbai – 400 703. … Petitioners.

V/s.

1. Sainath Education Trust,
through its Joint Secretary,
Plot No.16/17, Sector 10-A,
Vashi, Navi Mumbai – 400 703.

2. Sainath Hindi High School
through its Principal,
Plot No.16/17, Sector 10-A,
Vashi, Navi Mumbai – 400 703.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

3. The State of Maharashtra
through its Secretary,
Department of Education &
Employment, Mantralaya,
Mumbai – 32.

4. The Director of Education,
Central Building,
Pune – 411 001.

5. Education Officer,
Zilla Parishad, Thane.

6. Navi Mumbai Mahanagar Palika
Navi Mumbai, District Thane.

7. Smt. Manisha Gupta,
8. Smt. Chitra Bhatnagar,
9. Smt. Geeta Kamti,
10. Sri. Vishwambhar Nath Tripathi,
11. Smt. Vandana Sharma,
12. Smt. C. K. Maheshwari,
13. Sri. Santosh Singh,
14. Sri. Niraj Singh,
15. Smt. Krishna Singh,
16. Smt. Shashi Singh,
17. Sri. Mahendra Singh,
Sainath Hindi High School,
Plot No.16/17, Sector 10-A, Vashi,
Navi Mumbai- 400 703. … Respondents.

Mr.Suresh Pakale, Senior Advocate, with Mr.Nilesh Desai and Mr.Saurabh Pakale, i/b. Padmaja Malgaonkar for the Petitioners in WP No.2324/2014 and 1860/2005.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Mr.Mihir Desai, Senior Advocate with Mr. S.P. Sarnath i/b. Ms.Rishika Agarwal for the Petitioner in WP No.1473/2014.

Mr.Mihir Desai, Senior Advocate with Vinamra Kopariha for the Petitioners in OS-WP No.2871/2003.

Mr.Sudhir Talsania, Senior Advocate, with Mr.Jasbir Singh Saluja and Inayat Ali Qureshi i/b. K.K. Associates for Respondent Nos.1 and 2 in WP No.1473/2014.

Mr.Abhijeet Joshi for Respondent No.1 (AICTE).

Dr.Birendra Saraf, Advocate General, with Mr.P.P.Kakade, Government Pleader, Ms.R.A.Salunkhe, AGP and Shri Jay Sankhlecha for the State.

Mr.Shaikh Nasir Masih for Respondent Nos.4 and 5 in WP No.2324/2014.

Mr.Mihir R. Govilkar for Respondent No.3 (MSBTE) in WP No.2324/2014.

Mr.Sugandh Deshmukh for Respondent No.6 in WP No.1860/2005.

Ms.Meena Doshi with Ms.Usha Singh i/b. Vyas & Bhalwal for Respondent No.1 in OS-WP No.2871/2003.

Dr.Birendra Saraf, Advocate General, with Mr.S.B.Gore, AGP and Ms.Uma Palsuledesasi, AGP, for Respondent Nos.3, 4 and 5 in OS-WP No.2871/2003.

Mr.Rohit Sakhdeo for Respondent No.6 in OS-WP No.2871/2003.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

CORAM: NITIN JAMDAR,
BHARATI DANGRE AND
SANDEEP V. MARNE, JJ.

DATE: 25 October 2023.

JUDGMENT : (Per Nitin Jamdar, J.)

These petitions filed by employees of the respondent technical schools regarding their pay scales were placed before the Division Bench for consideration. Upon hearing the parties, the Division Bench concluded that, on the legal issues, there was a divergence of view between the Coordinate Benches of this Court. The Division Bench, by order dated 14 June 2022, after framing issues for consideration, directed the Registry to place the petitions before the learned Chief Justice to consider constituting a Larger Bench for resolving the conflict. The Division Bench framed the following questions for consideration :

> *"a. Whether the Division Bench decision in the case of Mahadeo More (supra) is applicable to the teaching and non-teaching employees of all the categories of the institutions covered under the definition of "School" provided under Section 2(24) of the MEPS Act.?*
>
> *b. Whether it could be said that the view in the case of Mahadeo More (supra) is not a correct view? And if yes, could it be said that the decision in the case of the Teachers Association (supra) expresses a correct view?*
>
> *c. Whether in the light of observations made by the Division Bench at Aurangabad in the case of Amrutraj Pratapji*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Vyas (supra), can it be said that the Judgment of the Division Bench at Nagpur in Mahadeo More (supra) is no longer a good law?

d. Whether there is a repugnance in the provisions of AICTE Act and the provisions of MEPS Act and MEPS Rules on the subject ? If not, then whether strict compliance of the provisions of Section 16 & 4 of the MEPS Act and Rule 7 of MEPS Rules and the amendment to Schedule "C" is necessary for making the pay scales recommended by the AICTE applicable to the employees governed by MEPS Act and MEPS Rules?"

Thereafter the Petitions are placed before this full Bench for answering the above Reference.

2. Two enactments govern the issue at hand. First, the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 framed thereunder. Second, All India Council For Technical Education Act, 1987 and the Regulations, instructions and orders issued by the All India Council For Technical Education. Then there are Government Resolutions issued by the State of Maharashtra on the subject matter.

3. The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, was enacted to regulate recruitment and conditions of service of the employees in certain private schools in the State. The legislature was of the view that providing such employees security and stability in service would

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

enable them to discharge their duties effectively and efficiently towards the pupils and their guardians in particular, and the institution and the society in general. Section 2 of the MEPS Act contains definitions of the phrases employed in the Act. As per section 2(7), an employee means any teaching and non-teaching staff of a recognized school, including an Assistant Teacher probationary. The phrase 'prescribed' as per section 2(17) means prescribed by the Rules.

4. Section 2(24) of the MEPS Act which defines 'School' is of importance. This provision reads thus:

> *"2. Definitions. - In this Act, unless the context otherwise requires,-*
>
> *….. ….. ….. ….. ….. ….. ….. …..*
>
> *(24) "School" means a primary school, secondary school, higher secondary school, junior college of education or any other institution by whatever name called, including, technical, vocational or art institution or part of any such school, college or institution, which imparts general, technical, vocational, art or, as the case may be, special education or training in any faculty or discipline or subject below the degree level;*
>
> *….. ….. ….. ….. ….. ….. …..."*

Earlier the definition of School did not contain certain categories. By the Maharashtra Act No.32 of 1990, the definition of 'School' was amended. The definition of 'School' after amendment now includes any institution by whatever name called including, technical, vocational or art institution or part of any such school, college or institution, which imparts general, technical, vocational,

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

art or, as the case may be, special education or training in any faculty or discipline or subject below the degree level. The statement and object of this amendment are referred to later.

5. Section 4 of the MEPS Act provides for terms and conditions of service of employees of private schools. It reads thus:

> "*S.4. Terms and conditions of service of employees of private schools:*
>
> (*1) Subject to the provisions of this section, the State]Government may make rules providing for the minimum qualifications for recruitment (including its procedure), duties, pay, allowances, post-retirement and other benefits, and other conditions of service of employees of private schools and for reservation of adequate number of posts for members of the backward classes :*
>
> *Provided that, neither the pay nor the rights in respect of leave of absence, age of retirement and post-retirement benefits and other monetary benefits of an employee in the employment of an existing private school on the appointed date shall be varied to the disadvantage of such employee by any such rules.*
>
> *(2) Every employee of a private school shall be governed by such code of conduct as may be prescribed. On the violation of any provision of such code of conduct the employee shall be liable to disciplinary action after conducting an in enquiry such manner as may be prescribed.*
>
> *(3) If the scales of pay and allowances, post-retirement and other benefits of the employees of any private school are less favourable than those provided by the rules made under sub-section (1), the Director shall direct in writing the Management of such school to bring the same up to the level provided by the said rules, within such period or extended period as may be specified by him.*
>
> *(4) Failure to comply with any direction given by the*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Director in pursuance of sub-section (3) may result in the recognition of the school concerned being withdrawn, provided that the recognition shall not be withdrawn unless the Management of the school concerned has been given a reasonable opportunity of being heard.

(5) No employee working in a private school shall work in any coaching class. If any employee, in contravention of this provision, works in any coaching class, his services shall be liable to be terminated by the Management, provided that no such order of termination shall be issued unless the employee concerned has been given a reasonable opportunity of being heard.

(6) No employee of a private school shall be suspended, dismissed or removed or his services shall not be otherwise terminated or he shall not be reduced in rank by the Management, except in accordance with the provisions of this Act and the rules made in that behalf.

Section 4 deals with terms and conditions of service in private schools and enables the framing of Rules for that purpose.

6. Section 16 of the MEPS Act confers Rule making power on the State, interalia, in respect of the minimum qualifications for recruitment of employees of private schools; their scales of pay and allowances; their post-retirement and other benefits; the other conditions of service of such employees including leave, superannuation, re-employment and promotion etc. These Rules are subject to the condition of previous publication. Every Rule made under this Act is to be laid, as soon as may be, after it is made, before each House of the State Legislature.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

7. Accordingly, the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 have been framed. Qualifications of the teaching and non-teaching staff are prescribed in Rule 6. Rule 7 lays down pay scales and pay allowances. Rule 7 reads thus:

> *"R.7. Scales of pay and allowances:*
>
> *(i) The scales of pay for full time as well as part time Heads, Assistant Heads, Supervisors, Teachers and the non-teaching staff in the primary schools, secondary schools including night schools, Junior College and Junior College of Education shall be as specified in Schedule "C".*
>
> *(ii) The allowances such as dearness allowance, compensatory local allowance and house rent allowance admissible from time to time at the place of duty to the full-time employee of a school shall be payable at the rates and according to such rules as are sanctioned by the Government specifically to the employee of private schools.*
>
> *(iii) The rate of dearness allowance applicable to part-time teaching and non-teaching staff in schools, including night schools, be such as may from time to time be determined by the Government by general or special order."*

The pay scales of full-time and part-time Head, Assistant Head, teaching and non-teaching staff in primary and secondary schools, junior colleges, and junior colleges of education are prescribed under Schedule-C, which is appended to the MEPS Rules. Schedule C is in a tabular form which deals with designation, pay, special pay, pay band and grade pay. Schedule 'C' framed under Rule 7(1) prescribes

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

pay scales for different groups in parts. Part-I is regarding scales of pay of primary school head and teachers. Part II is regarding Head . Part-III concerns the secondary school teachers and academic teaching staff in Technical, Multipurpose and Vocational High Schools. Part IV refers to Special Teachers in Secondary Schools and Junior Colleges of Education. Part-V is for the scales of pay of principals and teachers in junior colleges of education Part-VI is as regards the scales of pay of teachers in junior college (Higher Secondary) Units attached to Secondary Schools or Colleges. Part-VII relates scales of pay of head- in Higher Secondary Schools, part-time teachers and part-time non-teaching staff in Secondary Schools, including Night Schools and part-time teaching staff in Junior Colleges. Lastly, Part-VIII is regarding scales of pay for non-teaching staff in schools.

8. This is broadly the statutory framework governing the pay scales of the employees of private schools under the MEPS Act and the MEPS Rules.

9. The All India Council for Technical Education Act, 1987 (AICTE Act) was promulgated on 23 December 1987 to provide for the establishment of an All India Council for Technical Education for proper planning and coordinated development of a technical education system throughout the country, the promotion of qualitative improvements of such education with planned quantitative growth, and regulation & proper maintenance of norms

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

and standards in the technical education system and for the matters connected therewith.

10. Under section 2(h) of the AICTE Act, "Technical Institution" is defined as under:

> *"(h) "Technical institution" means an institution, not being a University, which offers courses or programmes of technical education, and shall include such other institutions as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare as technical institutions."*

Thus, Technical Institution means an institution, not being a University, which offers courses or programmes of technical education and shall include such other institutions as the Central Government may, in consultation with the Council, by notification in the Official Gazette, declare as technical institution.

11. Chapter III of the AICTE Act lays down the powers and functions of the AICTE. Section 10 of the said Act enumerates the Functions of the AICTE, the Council. It is the duty of the Council to take all such steps as it may think fit to ensure coordinated and integrated development of technical education and maintenance of standards. The Council may, inter alia, undertake surveys in the various fields of technical education, collect data on all related matters and forecast the needed growth and development in technical education. It has to coordinate the development of technical education in the country at all levels. The Council allocates

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

and disburses out of the fund of the Council with the grants to technical institutions and Universities imparting technical education in coordination with the Commission. The Council evolves suitable performance appraisal systems for technical institutions and Universities imparting technical education, incorporating norms and mechanisms for enforcing accountability. The Council is empowered to formulate schemes for the initial and in-service training of teachers in institutions or centres and set up new centres for offering staff development programmes, including continuing education of teachers. It lays down norms and standards for courses, curricula, physical and instructional facilities, staff patterns, staff qualifications, quality instructions, assessments and examinations. The Council-AICTE can fix norms and guidelines for charging tuition and other fees, grant approval for starting new technical institutions, and introduce new courses or programmes in consultation with the agencies concerned. The Council can lay down norms for granting autonomy to technical institutions, take all necessary steps to prevent the commercialization of technical education and provide guidelines for the admission of students to technical institutions and Universities imparting technical education. The Council can inspect or cause to inspect any technical institution and withhold or discontinue grants in respect of course programmes to such technical institutions which fail to comply with the directions given by the Council.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

12. With all extensive conferment of duties and powers under the AICTE Act, the Council- AICTE is empowered to prescribe pay scales for teaching and non-teaching staff in the polytechnic and degree colleges. Section 23(1), read with Section 10 (i) and (v) of the said Act, empowers AICTE to formulate regulations laying down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations and to perform such other functions as may be prescribed. AICTE issued a circular on 20 September 1989 prescribing the revised qualifications and pay scales for the teachers in technical institutions, including Polytechnics.

13. As per Section 23(1) read with Section 10 (i) and (v) of the AICTE Act, the "*All India Council for Technical Education (Pay Scales, Service Conditions and Qualifications for the Teachers and Other Academic Staff in Technical Institutions (diploma)) Regulations, 2010"* have been framed which provides for revised Pay Scales, Service conditions and Career Advancement Scheme for employees in polytechnic institutes.

14. The Government of Maharashtra has issued various resolutions from time to time revising the pay scales on recommendations of the Central Government's Pay Commission regarding teachers working in the Technical Schools and other institutions. The Division Bench of this Court in the case of

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Salunkhe Jayawant Vishnu v. The State of Maharashtra1, to which one of us (Bharati H. Dangre. J) was a party, has traced the history of various Government Resolutions regulating the subject matter. The bench noted that on recommendations of the pay commission from the Central Government, the State Government had issued resolutions from time to time revising the pay scale of teachers working in Government, non-government Engineering, Technology, Architecture, Pharmacy, Polytechnic institutes. The State Government approved the implementation of revised pay scales with effect from 1st April 1976 by issuing a resolution on 24 January 1979. A National Expert Committee was set up in October 1984 under the Chairmanship of Professor R.N.Dogre to look into the question of revision of salary structure, qualification, conditions of service etc. of the teachers of technical institutions including those of polytechnics. The report submitted by the Committee in June 1987 was considered by the AICTE . These recommendations were also placed before the empowered committee set up in the Ministry of Human Resources Development. The All India Council of Technical Education forwarded its recommendations to the State Government for appropriate action with the clear indication that no financial assistance would be forthcoming either from the Government of India or the AICTE, for implementation of the scheme. The recommendations of the AICTE were under consideration of the State Government for a considerable time and thereafter, the State Government decided to implement the scheme with some

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

modifications in the scales of pay and with terms and conditions set out by issuing a resolution on 26 May 1992. The revised pay scales were also made applicable to the teachers in the unaided diploma institutions without any financial assistance from the State Government. The revised scales of pay were directed to be made effective from 1 January 1986. The said Government Resolution was followed by a resolution issued by the higher and technical education department on 18 December 1999 .Thereafter the State Government by the resolution of 18 December 1999, resolved to confer the pay scales on the teachers of Polytechnic Institute as per the Government Resolution dated 26 May 1992 from 1 January 1986. Further, on 20 October 2000, the Government issued another resolution on account of the recommendations of the 5th Pay Commission and on a report of a Committee constituted under the Chairmanship of Mr.D.N. Sukhtankar to recommend the revised pay scale to the State Government and other employees. In terms of the said recommendations of the Committee, the revised pay scales were implemented to the teaching and non-teaching staff of the government polytechnic and engineering institute with effect from t January 1996 as per G.R. dated 10th December 1998. The State Government implemented the revised pay scales to the non-teaching staff of the technical institute and the revised pay scales were made applicable from 1 January 1996. By a further Resolution of 27 February 2003, the pay revision scheme was made applicable to institutions covered under the AICTE Act.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

15. This briefly is the statutory backdrop to the issue at hand.

16. In these four petitions, the Petitioners are the teachers/ lecturers and the Respondents are the educational institutes. The State of Maharashtra, through the Secretary of the Higher Technical Education Department, the Director of Technical Education, and the All India Institute of Technical Education are also party respondents.

17. The Petitioners are working in the educational institutes, which are technical vocational institutes imparting technical and vocational education falling within the definition of section 2(24) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (MEPS Act).

18. The facts summarized by the Division Bench in the referral order for each of these petitions is as follows:

> ***Facts of Writ Petition No.2871/2003***
>
> *2. In this petition, the petitioner Nos.1 to 7 are the teachers employed with respondent No.2 – High School. They have prayed for direction to quash and set aside the order of the Deputy Director of Education Nashik dated 5 June 2003 rejecting approval to their appointment as a secondary section teachers. They have prayed for direction to the respondent Nos.1 and 2 to pay the arrears, salary, allowances and other post retirement benefits as per prescribed scale and 5th Pay Commission for secondary section. It is their case that they were appointed by following due procedure and therefore, they are entitled to get the reliefs.*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

3. The Principal of the respondent No.2 – High School and Junior College has filed the affidavit. Apart from opposing the petition on merits, the Principal has raised a preliminary legal objection. It is contended that as per Section 2(17) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (hereinafter referred to as 'MEPS Act'), 'prescribed' means prescribed by rules. Section 2(23) of the MEPS Act provides that the 'rules' means the rules made by the State Government under this Act. Section 4 of the MEPS Act prescribes the terms and conditions of the service of employees of the private school. Section 4(1) empowers the State Government to make rules and Section 4(3) prescribes the scales of pay and allowances, post retirement and other benefits of the employees of any private school. Section 16 of the MEPS Act provides that all the rules made under this act are subject to the conditions of a previous publication. Section 16(4) provides that every rule made under this Act shall be laid, as soon as may be, after it is made before each House of State Government Legislature. The State Government shall notify such decisions in the Official Gazette and the rules shall be applicable from the date of publication of such notification subject to modification. It is submitted that in order to grant the benefit of the pay scales prescribed by the 5th Pay Commission, the procedure prescribed above has not been followed. There is no amendment to Schedule 'C' of the MEPS Act. It is submitted that the revision of pay made by the 5th Pay Commission cannot be made applicable on the basis of the Government Resolution.

Facts of Writ Petition No. 1860/2005*4.*

The petitioners are the teachers and non-teaching staff members of the respondent No.5 and 6 namely Shivnagar Vidya Prasarak Mandal's Institute of Technology and Engineering. The petitioners were appointed against the vacant and sanctioned post. It is the case of the petitioners that the respondent Nos.1 to 4 have failed to implement the government pay scales and allowances applicable to the

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

petitioners from time to time. According to them, their service conditions are governed by the Provisions of MEPS Act and the MEPS Rules as well as the norms laid down by All India Council for Technical Education (for short 'AICTE'). The norms laid down by the AICTE have been followed by the State Government and the directions have been issued to the Management by the respondent No.4 under Section 4(3) of the MEPS Act. The petitioners have submitted that they have not been paid the salary and the allowances as per the pay revision prescribed by the 5th and 6th Pay Commissions. The AICTE from time to time has implemented the pay scales to the teachers of the Government aided and unaided Polytechnic and the Pharmacy Institutes. The petitioners have therefore prayed that the directions be issued to the respondent Nos.5 and 6 to pay them their salary as prescribed under the 5th and 6th Pay Commission.

5. The Principal of the respondent No.5 has filed an affidavit and opposed the petition. The objection similar to the one set out hereinabove have been raised by the respondent Nos.5 and 6.

6. The respondent No.3 has filed the reply and contended that vide Resolution dated 18 December 1999, the Government of Maharashtra has issued directions to all the Government, aided and non-aided institutes to implement the revised 5th Pay Commission recommendations. It is the responsibility of the respondent Nos.5 and 6 to comply the said Government Resolutions.

Facts of Writ Petition No.1473/2014

7. The sole petitioner was appointed as a Full Time Lecturer to teach Economics and Sociology in the respondent No.1 – Institute. On 29 June 1994, her pay scale was fixed as Rs.1400-2600 plus Rs.125/- Grade Pay. After 1994, from year to year the appointment order was issued to the petitioner. The petitioner was terminated from service. The petitioner had challenged her termination by filing the appeal. On 6 February 2003, the School Tribunal dismissed the appeal. The petitioner filed Writ Petition bearing No.1386/2003 in this Court against

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

the order of School Tribunal. During the pendency of the proceedings before School Tribunal as well as before this Court, the stay was granted to her termination. The petitioner therefore continued to work. The petitioner was entitled to get the scales of pay and allowances but it was denied. The petitioner therefore prayed for direction to the respondent Nos. 1 and 2 to grant the scale of pay on the basis of the 5th Pay Commission recommendation with effect from 1 January 1996 and on the basis of the recommendation of the 6th Pay Commission with effect from 1 January 2006 with arrears and difference of salary.

8. The Principal has filed the affidavit for and on behalf of the respondent Nos.1 and 2 and opposed the petition. It is contended that the appointment of the petitioner was not by following the mandatory procedure prescribed by the MEPS Act and MEPS Rules. She was appointed to a post meant for reserved category candidate. Her appointment was therefore on temporary basis. She is not entitled to get the benefit of either 5th Pay Commission or 6th Pay Commission. Though, the approval to the appointment was granted by the Deputy Director of Education Mumbai, for the academic year 1996-1997, the respondent Nos.1 and 2 were not liable to pay the arrears to the petitioner. According to the respondent Nos.1 and 2, due to oversight the excess salary amount of Rs.86,872/- for the academic year 1998-1999 has been paid to the petitioner. The respondent Nos.1 and 2 were entitled to recover the excess payment made to the petitioner.

Facts of Writ Petition No. 2324/2014

9. In this petition, the petitioners are seeking directions to the respondent Nos.4 and 5 to comply with the orders passed by the respondent No.2 dated 14 August 2013 and 3 February 2014 and implement the Pay Band – 4 as per the 6th Pay Commission recommendation with effect from 1 January 2006 and the arrears of the salary and other allowances. The petitioners are holding the posts of Executor in the respondent No.4 - College Vidyavardhini's Bhausaheb Vartak Polytechnic at Vasai Road, Thane, managed by respondent No.5 – Society.

10. It is stated that the pay scale introduced by the respondent

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

No.1 (AICTE) initially was Rs.700-1300, an old pay scale, and Rs.2200-75-2800-100-4000 was the new pay scale. The same was made applicable to the petitioners by Government Resolution dated 26 May 1992. On 18 December 1999, the Government of Maharashtra with effect from 1 January 1996 made the 5th Pay Commission recommendation applicable to the employees. Similarly the recommendations made in the pay revision by the 6th Pay Commission were accepted and made applicable with effect from 1 January 2006. The directions were issued to the respondent Nos.4 and 5 to do the needful in the matter. However, the respondent Nos.4 and 5 did not pay the salary and other allowances as recommended. The petitioners have made representation on 12 February 2014. The respondents have not taken any decision on the representation.

19. For the sake of convenience, in this judgment, the "technical schools", falling within section 2(24) of the MEPS Act are referred to as "Technical Schools". The schools other than "Technical Schools" are referred to as "General Schools", and the Petitioners are referred to as "Employees".

20. The Technical Schools where the Petitioners- Employees work are governed and regulated under the All India Council For Technical Education Act, 1987 (AICTE Act). The grievance of the Petitioner-Employees is that the Technical Schools are not paying them the pay scales introduced by the AICTE. The Respondent-Technical Schools have resisted the claim of the Employees, contending that they are not bound to pay scales introduced by the AICTE to the Employees who are governed by the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Maharashtra Employees of Private Schools

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

(Conditions of Service) Rules, 1981 (MEPS Rules), without there being an amendment in the MEPS Rules and Schedule C.

21. When these petitions came up for consideration of the Division Bench (Shukre & Sanap, JJ.), the learned counsel for the parties cited and relied upon the following decisions:

(i) *Teachers Association for Non Aided Polytechnics v. Hindi Seva Mandal*[1] ;

(ii) *Amrutraj Pratapji Vyas v. Hind Seva Mandal, Bhusawal*[2];

(iii) *Raskar Vidya Damodar Vs. Maharashtra Arogyamandal*[3];

(iv) *Sunanda Pandharinath Adhav Vs. State of Maharashtra*[4];

(v) *Mahadeo Pandurang More v. State of Maharashtra*[5];

(vi) *Anil Govindrao Kale v. Maharashtra Academy of Engineering & Education Research Pune*[6];

(vii) *Shivaji Shikshan Prasarak Mandal Vs. State of Maharashtra*[7].

The Bench heard the learned Advocates appearing for the parties on the issue as to whether on the questions involved a reference is required to be to the larger Bench in view of divergent views of the Coordinate Benches of this Court in more than one case.

22. The gist of the contentions by the Respondent- Technical

1 2003 BCR (Supp) 846
2 2018(2) Mh.L.J. 615
3 2000 SCC Online Bom 339
4 2000 SCC Online Bom 745
5 2014(5) Mh.L.J. 877
6 2019 (1) Mh.L.J. 506
7 (2005) 13 SCC 407

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Schools advanced before the Division Bench in support of making a reference to the larger bench is as follows. The field relating to the pay scale payable to the teachers and non-teaching staff in the school and, more particularly, the Engineering / Polytechnic institution is occupied by the provisions of Section 16 of the MEPS Act and the subordinate legislation, namely Rule 7(1) and Schedule 'C' of the MEPS Rules. Under Section 16 (1), the State Government is empowered by notification in the Official Gazette to make rules for carrying out the purposes of this Act. The subjects for which the rule can be made have been set out in sub-Section 2 of Section 16. The procedure for publication and giving finality to the Rules has been provided under sub-Sections 3 and 4 of Section 16 of the MEPS Act. In the matter of publication of Rules, the provisions of Section 24 of the Maharashtra General Clauses Act must be followed. As long as the field is occupied by the substantive law, including the subordinate legislation such as Rules framed under the statute, the Government Resolution cannot be issued under Article 162 of the Constitution of India to fill or encroach upon the said field. When an Act and/or subordinate legislation like Rules contemplates that a particular thing should be done in a particular manner, then it has to be done in that manner only and not in another manner. Section 16 & 4 & Rule 7 and Schedule 'C' have been considered by the Division Bench in *Mahadeo More*, where it is held that unless and until scales of pay sought for by the employees find their birth in schedule (C) appended to 1981 rules, a direction to extend the same cannot be

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

issued based on the Government Resolution. This judgment lays down the correct law, and therefore, the judgment is required to be followed. *Mahadeo More* was cited before the Division Bench in *Amrutraj Pratapji Vyas*, and the Division Bench in the case of Amrutraj Pratapji Vyas has simply observed that it is not applicable to the facts of the case. The decision in *Mahadeo More* was a binding precedent; therefore, the same should have been followed. Another Division Bench in *Anil Govindrao Kale & Ors.* has considered the decision in *Mahadeo More;* however, nothing has been said about the judgment in the case of *Mahadeo More*. Even after the amendment to Schedule 'C' of the MEPS Rules in the year 2016, no provision has been made prescribing the pay scales of the employees of the Technical Schools. In the absence of an amendment to Schedule 'C' by following the procedure and incorporating the categories of the employees of the Technical Schools with their respective pay scales, based on the Government Resolution, the implementation of the revision of the pay scale either by 5th or 6th Pay Commission, would be illegal. The Full Bench in *Anil Dattatray Ade* has held that the Technical Schools is a school within the meaning of Section 2(24) of the MEPS Act. In the case of *Anil Dattatray Ade*, the Full Bench has held that even after the enactment of the AICTE Act and the regulations made thereunder, there is no repugnancy between the provisions of the MEPS Act and MEPS Rules on the one hand, and the AICTE Act and the regulations made thereunder on the other hand on the subject agitated before

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

this Court. As long as the service conditions and pay scales of the employees of the technical and vocational institutions are governed by the MEPS Act and MEPS Rules, the application and implementation of the revision of the pay scales by the 5th or 6th Pay Commission must be strictly according to the provisions of the MEPS Act. The view taken by the Division Benches in *Amrutraj Prajapati Vyas* and *Teachers Association* is contrary to the view taken by the Division Bench in the case of *Mahadeo More*.

23. The Counsel for the Employees opposed the reference, contending, briefly, as follows. There is no conflict between the decisions in the cases of *Mahadeo More* and *Amrutraj Vyas*. Both judgments operate in different spheres and deal with separate and independent categories. The decision in *Mahadeo More* is applicable to the employees of General Schools. In contrast, the judgment in the case of *Amrutraj Vyas* is applicable to the employees working in the Technical Schools and not the General Schools. Since the AICTE is required to make a provision for the pay scales of the employees covered under the AICTE Act, it was not necessary to amend Schedule 'C' of the MEPS Rules. There is no conflict in views on the point of law; therefore, there is no need to make a reference. The Technical Schools are trying to reopen all the issues put to rest in the last 20 years. Also, the applicability of identical pay scales to the teachers in aided and unaided schools under the MEPS Act was first considered in *Raskar Vidya Damodar,* and it was categorically held

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

that the employees of unaided schools are entitled to the pay scales as applicable to employees of aided and Government schools. The issue of applicability of the Government Resolution seeking to revise the pay of teachers in private unaided schools was considered by this Court in the case of *Sunanda Pandharinath Adhav*. In this case, the Division Bench, while emphasizing the principle of "Equal pay for equal work", held that the Government Resolution seeking to implement the 5th Pay Revision for the teachers of unaided private schools was valid and unaided private schools would be obliged to pay the revised pay scales as per Government Resolution. The decision in the *Sunanda Adhav* case was challenged before the Hon'ble Supreme Court, and the ratio of the said judgment came to be upheld in the matter of *Shivaji Shikshan Prasarak Mandal*. The decision in the case of *Mahadeo More* is *per incuriam* as the same fails to consider the judgment of this Court in *Sunanda Pandharinath Adhav*'s case.

24. Th Division Bench (Shuke and Sanap, JJ.) opined that reference to the larger bench is necessary. The Division bench observed that the service conditions of the employees of the "School" as defined under Section 2(24) are governed by the provisions of the MEPS Act and MEPS Rules. The AICTE is empowered to make recommendations regarding revised qualifications and pay scales for teachers of technical institutions, including polytechnic. In the State of Maharashtra, the MEPS Act and MEPS Rules govern the rest of the service conditions of the employees of the technical institutions,

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

including polytechnic institutes. The mechanism for the mode and manner of implementation of the pay scales recommended by AICTE and approved by the Central Government has not been provided under the AICTE Act or the Regulations. Thus, the provisions/instructions would show that AICTE was aware that while implementing revised scales of pay, the State Governments would be required to adhere to and take into consideration the applicable laws as well as subordinate legislation. The State Government has not devised a mechanism or formula while implementing revised pay scales. The Bench opined that this fact would be required to be kept in mind to consider whether reference is required to be made to Full Bench or not. The Division Bench then examined the decision in *Mahadeo More* where it is held that the employees of the "school" as defined under section 2(24), must find their birth in Schedule "C" appended to MEPS Rules and also that compliance of the provisions of Section 16 of MEPS Act and Rule 7 of MEPS Rules is necessary to give finality. The Division bench then considered the decision in *Teachers Association*. The Division Bench noted that in *Teachers Association*, the Division Bench had considered the provisions of sub-section- (1) of Section 4 to hold that the Director of Technical Education derives the authority and power from Section 4(3) of the MEPS Act. Considering these decisions, the Division Bench opined that on the interpretation of section 4(3), there is a conflict in the decisions of *Teachers Association*, *Amrutraj Prajapati Vyas* on the one hand and

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Mahadeo More, on the other hand, proceeded to make the reference in the term reproduced above.

25. We have heard the learned counsel. The learned counsel have addressed us on similar lines as advanced before the Division bench. The learned Advocate General has assisted the Court.

26. The foundation for making this reference is the divergence perceived by the Division Bench in the judicial pronouncements cited in the Reference order. The main argument put forth by the Employees, supported by the learned Advocate General for the State, is that no such conflict exists. They assert that the cited decisions govern distinct areas and regulate different groups of employees. This, according to us, is the central issue for consideration. If there is no conflict between these two sets of decisions and they operate independently, then the discussion would be in a different sphere. To address this question, we will have to consider the decisions of the division Benches of this court, which the reference order has pointed out, then the statutory provisions and Government Resolutions.

27. As our further narration would show, the judicial pronouncements dealing with the pay scales and their implementation regarding Technical Schools and General Schools have proceeded on separate paths. Briefly put, which we will expound later, the decision in the case of *Mahadeo More* has dealt

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

with General Schools. In contrast, the decisions in *Amrutraj Pratapji Vyas* and *the Teachers Association* have dealt with Technical Schools.

28. First, we examine the decision in the case of *Mahadeo More*. Mahadeo More and others worked with an unaided private minority school. They sought salary as per the pay scales prescribed by the State Government through its resolution dated 21 May 2010, extending revision as per the recommendations of the 7th Pay Commission to the teaching and non-teaching staff. The Respondent- institute therein opposed the petition, *inter alia*, on the ground that the Government Resolution dated 21 May 2010 does not amend Schedule-C appended to the MEPS Rules and the pay scales prescribed therein have not undergone any change. The Division Bench (B. P. Dharmadhikari and P. R. Bora, JJ.) referred to Rule 7 of the MEPS Rules. The Division Bench opined that as per the legislative design in Rule 7, the State Government has been denied power to vary scales of pay in Schedule "C" through executive fiat unless and until the rules are amended by following the process stated in section 16(3), that new pay scales cannot be read into it and become part of the Schedule. The Division Bench then addressed the question as to whether the Secondary School Code or the Government Resolution issued can operate *dehors* the MEPS Act and the MEPS Rules. The Division Bench concluded that the MEPS Act covers the entire field regarding service conditions. The Division Bench, therefore, held as under:

> *"44. ….. ….. Also non-teaching staff was left out of order*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

dated 17.08.1991 granting permission to the school of the respondent nos. 5 to 7. Now, service conditions of the entire staff, teaching and non-teaching either in primary or secondary Schools employed by them are subject matter of only one enactment, i.e. 1977 Act. We have already compared relevant provisions of the SS Code and the 1977 Act or 1981 Rules. Thus, in any case, so far as service conditions are concerned, 1977 Act is the only enactment holding the field while the provisions in SS Code on service conditions do not emanate from the State Legislature. Even if the debate about the statutory nature or binding force of the SS Code is overlooked, the 1977 Act with 1981 is more comprehensive. It not WP No.1949/2012 only occupies the full field available but is the only mandate from the State Legislature. It is, therefore, a complete code which regulates the pay scales of petitioners. Hence, scales of pay as mentioned in Schedule "C" must be given to them. But then, any scales of pay not forming part of Schedule "C" can not be made applicable to petitioners. Hence, only solution in this situation is to amend the scales of pay mentioned in Schedule "C". After such an amendment only, petitioners can aspire for the scales of pay in said Schedule. Corrective steps or coercive action also become possible against management only after such amendment to Schedule "C".

….. ….. ….. ….. ….. ….. …… …...

46. We, therefore, find that unless and until scales of pay sought for by the petitioners find birth in Schedule "C" appended to the 1981 Rules, a direction to extend the same to them can not be issued. GR dated 21.05.2010 at Annex. B with the writ petition does not bring about this effect. This GR however shows that by similar executive fiat, vide GR issued on 12.06.2009, very same pay scales have been applied to aided private schools……"

It needs to be noted that the issue of the Technical Schools by the norms prescribed by AICTE never arose for consideration in *Mahadeo More*. This is important since in *Amrutraj Pratapji Vyas*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

and *Teachers Association,* the issue regarding Technical Schools directly arose for consideration.

29. It is also pertinent to note that the decision in the case of *Teachers Association* was rendered on 3 July 2001 and it is not discussed or distinguished in the decision of *Mahadeo More*, which was rendered on 27 June 2014.

30. In the case of *the Teachers Association*, the Petitioners were the association of the teachers of unaided Technical Schools, and the members of the teaching and non-teaching staff of the Technical Schools. In their petition, they had contended before the Division Bench of this Court at Aurangabad (B. H. Marlapalle and N.V. Dabholkar, JJ.) that the Directorate of Technical Education, Government of Maharashtra, had addressed a communication to all Principals of the private unaided technical colleges and polytechnic institutions calling upon them to pay salaries, allowances, bonus, provident fund etc. As there was no response from the Polytechnic, the Teachers' Association and its members sought a writ of mandamus to direct their employer- Polytechnic to pay them pay and allowances as per the circular issued by the Directorate of Technical Education on 29 September 1995. There were two rounds of litigation preceding this decision. The Technical Schools took a stand that the State Government's instructions regarding the revision of pay are not binding on them. The Assistant Director of Technical Education filed a reply contending that as per the Government

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Resolution dated 21 May 1983, the Technical Schools were required to abide by the directions issued. It was stated that the Assistant Director derives authority to issue directions to such institutions under section 4 of the MEPS Act, and it is not permissible in law for a private unaided technical or non-technical institute to contend that it was not liable to pay salaries as per the pay-scales prescribed.

31. The Division Bench in *Teachers Association* considered two issues. First, as to whether the direction issued by the Assistant Director of Technical Education by communication dated 29 September 1995 was without any statutory authority. Second, whether it could be enforceable by writ of mandamus. The Division Bench answered this issue by observing this:

> *"18. ….. ….. It is under the provisions of section 4(3) of the M.E.P.S. Act that the respondent No.4 is vested with the authority to issue directions in writing to the management of all private schools to bring the pay scales, allowances, post-retirement and other benefits of the employees on par with the rates prescribed. The A.I.C.T.E. has already prescribed the pay scales in respect of the employees under the Polytechnics and, therefore, the respondent No.4 has the authority to issue directions to such polytechnics to implement the pay scales prescribed by the A.I.C.T.E*
>
> *19. The Council, being a body created under an Act of the Parliament, is required to carry out statutory functions, and it is a modal agency so far as the technical education is concerned. The respondent No.4 being responsible for the technical education at the State level derives his authority to issue directions/instructions to the private managements, whether aided or unaided in view of the provisions of section 4(3) read with section 3(1) of the M.E.P.S. Act and by issuing*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

> *such directions he would be performing a statutory function. The petitioners are, therefore, entitled to seek directions or a writ of mandamus against their employer for implementing such directions regarding pay scales and other benefits. The circular dated 29 September, 1995 is required to be held to have been issued by exercising the powers under section 4(3) of the M.E.P.S. Act and there is no doubt that the respondent No.2 is governed by the provisions of the said Act."*

The Division Bench in *Teachers Association,* held that AICTE had already prescribed the pay scales in respect of employees in Technical Schools and, therefore, the Assistant Director had the necessary powers.

32. In *Teachers Association*, the issue arose regarding the pay scales of teaching and non-teaching staff of the Technical Schools. The Respondent- Polytechnic had questioned the power of the State Government to issue a circular, and the contention raised was that it had no such power when the MEPS Act and the MEPS Rules apply to the Respondent. This was specifically countered by the State Government tracing its power to issue such directions regarding AICTE prescribed pay scales. Therefore, in the *Teachers Association*, the issue of the the State Government directing technical Schools to pay its teaching and non-teaching employees as per the AICTE norms and pay scales arose for consideration and was answered. The Division Bench, in the case of the *Teachers Association*, having noted the legislative history of amendment of section 2(24) and the interplay between the MEPS Act, MEPS

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Rules, and AICTE Act, stressed upon the validity of the State Government issuing the requisite directions to enforce the pay-scales prescribed by AICTE to the Technical Schools. The Bench concluded that AICTE, being the body created under the AICTE Act of Parliament is a nodal agency regarding technical education and the Directorate of Technical Education at the State level is responsible for technical education at the State level. The Bench read the legislative intent as to why it was not necessary to amend Schedule-C in respect of Technical Schools because when the Polytechnics were held to bring within the ambit of section 2(24) of the MEPS Act in the year 1990, the AICTE Act had prescribed the pay-scales and, therefore, those pay-scales of the teaching and non-teaching staff were binding on the Technical Schools.

33. The decision in the case *Teachers Association* was followed in *Amrutraj Pratapji Vyas*. In this case, Amrutraj Vyas and others filed a writ petition in the Aurangabad Bench of this Court praying for a writ of mandamus against the Respondent-employer Polytechnic for disbursement of pay and allowances and to extend the service benefits as per the instructions in the Government Circular/ letter dated 29 September 1995 issued by the Directorate of Technical Education. The Employees therein contended that they were working for seven to eight years as non-teaching staff, however, they were not being paid the pay scales as directed in the Circular dated 29 September 1995. The Division Bench (R.D.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Dhanuka and Sunil K. Kotwal, JJ.) considered the challenge and extensively referenced the decision in the *Teachers Association*. The Respondents- Technical Schools contended that the employees and the Technical Schools are covered by the provisions of the MEPS Act and the MEPS Rules and the pay scales prescribed in Schedule-C appended to the MEPS Rules. The decision in *Mahadeo More* was relied upon by the Respondents- Technical Schools. The Division Bench in *Amrutraj Pratapji Vyas* referred to the decision in *Teachers Association* in *extenso* and adopted the same reasoning. The Division Bench observed thus:

> *"56. In so far as the reliance placed by learned counsel for the respondent No. 1 and 2 on the judgment of Division Bench of this Court in case of Mahadev S/o. Pandurang More and Ors. Vs. State of Maharashtra and Ors. 2014 (5) Mh.LJ. 877, in support of his submissions that such circular dated 29 September, 1995, could not have been issued by the respondent No.4 without carrying out appropriate amendment to the Schedule-"C" is concerned, a perusal of the said judgment indicates that the judgment of this Court in case of Teachers Association for non-aided Polytechnics and others Vs. Hind Seva Mandal and others to which the respondent Nos. 1 and 2 were parties was not brought to the notice of their Division Bench of this Court while dealing with the case of Mahadev Pandurang More (supra). In the said judgment, the Division Bench of this Court held that the Government Resolution or any other similar decision or similar circular or decision regarding pay scales not taken in the mode and manner prescribed by 1977 Act or 1981 Rules, cannot be treated as valid and binding on the Management.*
>
> *57. This Court has not considered the provisions of the said A.I.C.T.E. Act in the said judgment and also the undertaking given by the school. Be that as it may, Respondent Nos.1 and 2 were admittedly parties to the said earlier judgment dated 3*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

> *July, 2001 in the writ petition No.364 of 1999 are bound by the said judgment holding that the respondent No.4 were authorised to issue such circular which was issued under the provisions of section 4(3) read with section 16 of the A.I.C.T.E. Act. In our view, the judgment of Division Bench of case in Mahadev Pandurang More, thus, would not assist the case of respondent Nos. 1 and 2 in these circumstances."*

In the case of *Amrutraj Pratapji Vyas*, the decision in the case of *Mahadeo More* was cited. The Division Bench distinguished the said decision by holding that the decision in the case of *Mahadeo More*, the Court had not considered the provisions of the AICTE Act. Though there is a reference by the Division Bench in paragraph 56 of the judgment in the case of *Amrutraj Pratapji Vyas* that the decision in the case of *Teachers Association* was not brought to the notice of the Division Bench while dealing with the case in *Mahadeo More*, nothing turns on this observation. In the case of *Amrutraj Pratapji Vyas*, the Division Bench clarified this position in paragraph 57, wherein it is observed that in *Mahadeo More,* the Division Bench did not consider the provisions of the AICTE Act.

34. The next decision to be noticed is of the division bench in the case of *Vishnu Jayawant Salunkhe,* rendered on 16 August 2018. This is not referred to in the Reference order. In *Vishnu Jayawant Salunkhe,* the Division Bench (S.C. Dharmadhikari and Bharati H. Dangre, JJ.) considered the prayer of the Petitioners therein who were employed as teaching and non-teaching staff and were working with the Respondent- Technical School, a Pharmacy Institute. The

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Petitioners were aggrieved by the non-extension of the benefit of pay to them. The Petitioners had relied upon Government Resolutions dated 18 December 1999, 20 October 2000 and 27 February 2003 directing the implementation of recommendations of the 5th Pay Commission and revision of pay-scales directing the implementation of recommendations of 5th Pay Commission and revision of pay-scales of the teachers in the government/ non-government engineering/ technology, architectural and pharmacy polytechnic and other institutions of technical education. On various grounds, such as disputed questions of fact, the entitlement has been inflated without giving any particulars; the petition was opposed by the Respondent- Technical School therein. The Division Bench relied upon the decision in the case of *Teachers Association*. The Bench held that by various Government Resolutions issued and the scheme of the MEPS Act and the MEPS Rules, the State Government, from time to time, has extended the benefits of revised pay scales to teaching and non-teaching staff working in Technical Schools and, therefore, the Petitioners were justified in contending that the Government Resolutions should be enforced in their favour with the pay-scales set out therein. Accordingly, the Division Bench allowed the writ petition and directed the Technical Schools to extend the benefits of the Circular dated 29 September 1995 issued by the Directorate of Technical Education.

35. Thus, there are two different positions. One is governing

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

the pay scales and their implementation concerning Technical Schools. Second, in respect of General Schools i.e. other than the one governed by the norms laid down by the AICTE Act. The above analysis shows that in *Mahadeo More*, the Division Bench was concerned with the issue as regards the powers of the State Government to prescribe pay-scales outside Schedule-C to General Schools and, therefore, it held that as far as these schools are concerned, there cannot be enforcement of the pay-scales outside Schedule-C by way of an executive fiat. However, in the *Teachers Association*, the Division Bench dealt with a different class of schools, namely Technical Schools and approved of on implementation of the Government Resolutions to enforce the pay scales prescribed by AICTE.

36. Therefore, the first question as to whether the decision in the case of *Mahadeo More* is applicable to the teaching and non-teaching employees of all categories of the institutions covered under the definition of "School" under section 2(24) of the MEPS Act will have to be answered in the negative. The decision in the case of *Mahadeo More* did not cover the technical schools covered by the norms of AICTE which has been dealt with separately in the case of *Teachers Association* followed in the cases of *Amrutraj Pratapji Vyas* and *Vishnu Jayawant Salunkhe*.

37. We now turn to the question as to whether strict

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

compliance with the provisions of Sections 16 & 4 of the MEPS Act and Rule 7 of MEPS Rules and the amendment to Schedule "C" is necessary for making the pay scales recommended by the AICTE applicable to the employees governed by MEPS Act and MEPS Rules C and the parameters of section 4(3) of the MEPS Act.

38. The combined effect of the three, the two legislations and executive instructions regarding pay scales in Technical Schools is as follows. The MEPS Rules are enacted in the exercise of the powers conferred under sections 16(1) and(2) of the MEPS Act. Rule 7 of the MEPS Rules deals with scales and pay allowances and provides that pay for full-time as well as Part Time Heads, Assistant Heads, Supervisors, Teachers, and non-teaching staff in primary schools, secondary schools, night schools, and junior colleges would be prescribed as per Schedule-C to the MEPS Rules. Schedule C has been referred to earlier. The AICTE Act, the Regulations and the Orders apply to Technical Schools and also the pay scales.

39. The Respondent- Technical Schools contend that the Government Resolution cannot be issued under Article 162 of the Constitution of India to fill or encroach upon the said field and when an Act and/or subordinate legislation like Rules contemplates that a particular thing should be done in a particular manner, then it has to be done in that manner only and not in another manner at all. The field relating to providing the pay scale payable to the teachers and non-teaching staff in the school and, more particularly, the

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Engineering / Polytechnic institution is the field occupied by the provisions of Section 16 of the MEPS Act and the subordinate legislation, namely Rule 7(1) and Schedule 'C' of the MEPS Rules, We do not find merit in this contention. There is legislative history to this issue. Until 1990, when section 2(24) of the MEPS Act defining 'school' was amended, the Technical Schools were not referred to in section 2(24) of the MEPS Act, and an amendment was brought in vide The Maharashtra Act XXXII of 1990. The statement of Objects and Reasons of The Maharashtra Act XXXII of 1990 for amending the Act of 1977 has been reproduced by the Full bench in *Anil Ade*. It reads thus:

> *" The Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 is enacted to regulate recruitment and conditions of service of employees in certain private schools. The expression "school", as defined in section 2(24) meant a primary school, secondary school, or higher secondary school or any part of any such school, a junior college of education, or any other institution or part thereof which imparts education or training below the degree level including any institution which imparts technical or vocational education. In Writ Petition No. 2719 of 1984 (Shri P.D. Prabhudesai v. The Principal, M.T.E. Society's Walchand College of Engineering, Vishrambaug at Sangli), it was contended that polytechnic, an institute which imparts technical education upto a diploma level is not covered within the definition of the expression "school" and therefore the School Tribunal constituted under the Act had no jurisdiction to adjudicate the dispute raised by a teacher of a polytechnic. The Division Bench of the Bombay High Court had upheld this contention and observed that by merely interpretative process, it was not possible for the court to confer jurisdiction upon the School Tribunal, where it had none under the Act. Government therefore, considered it expedient to amend the definition of the expression "school" so as to cover all technical and non-technical*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

> *schools, junior colleges and institutes which impart general, technical, vocational, art or, as the case may be, special education or training in any faculty or discipline or subject below the degree level. Opportunity was also taken to amend certain other definitions or sections of the Act, which were found necessary or were consequential or incidental. The Act seeks further to amend the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, to achieve the abovementioned objectives."*
>
> (emphasis supplied)

Accordingly, Maharashtra Act XXXII of 1990 was passed by the Legislature. Clauses (21), (24) and (25) of section 2 were substituted by the 1990 Amendment. Other amendments were also made. The reference to overcome the situation indicated by a judicial pronouncement that the School Tribunal constituted under the Act had no jurisdiction to adjudicate the dispute raised by a teacher of a polytechnic which imparts technical education up to a diploma level is not covered within the definition of the expression "school", is pertinent.

40. After the amendment of 1990, the State, however, did not find it necessary to correspondingly amend Schedule C because the AICTE had already prescribed the pay scales in respect of the employees in the Technical Schools. There is no debate that the academic and administrative matters of Technical Schools norms are prescribed by the AICTE. The Technical Schools have to function as per the AICTE norms. These norms include the requirement of payment of salaries and pay scales to the employees of the Technical

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Schools. The AICTE Act prescribes pay scales and other service conditions of teaching and non-teaching staff in Technical Schools and other technical institutions. This position is not in dispute.

41. The AICTE forwarded the recommendations *iner alia* on 20 September 1989, pertaining to the revision of the pay scale. The State Government, by virtue of Government Resolution dated 26 May 1992 and others had called upon the Technical Schools to implement the revised pay scale as recommended by AICTE with effect from 1 January 1986. The pay scale was further revised from time to time by adopting the aforesaid mechanism, to provide for the pay scale commensurate with recommendations of various Pay Commissions.

42. The M.E.P.S. Act and Rules regulate the recruitment and the conditions of service of the employees in private schools. Schedule 'C' of M.E.P.S. Rules prescribes the pay scale payable to the teachers. The said Rules are framed by the State Government pursuant to its powers under section 4 of the M.E.P.S. Act. Even though the Technical Schools were included in the definition of School under section 2(24) under MEPS Act, they have not lost their distinctive character as regards the pay scales which are prescribed by the AICTE. The State Government advisedly did not feel it necessary to amend Schedule-C because the pay scales for the Technical Schools, which were brought into the definition of section 2(24), were already prescribed by AICTE.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

44. The Division Bench in the reference order has referred to the Circular/order issued by the AICTE on 30 December 1999, more particularly Clauses 2.3 and 16.1 thereof. Clauses 2.3 and 16.1 read thus:

> *"2.3 State Government Institutions and Private Aided Institutions*
>
> *Taking into account the local conditions, a State Government may implement the revised payscales from a date later than January 1, 1996 and/or implement pay-scales other than those given in this notification, but which are not higher than the pay-scales given in Tables.*
>
> *(Appendix A - 1, 2 and 3). In such cases, the details of the modification proposed either to the scales of pay or the date from which the scheme is to be implemented, should be furnished to the All India Council for Technical Education for its approval.*
>
> ….. ….. ….. ….. ….. ….. ….. …..
>
> *16.1 General*
>
> *(a) The implementation of the revised scales will be subject to the acceptance of all the conditions mentioned in the scheme including revised qualifications and recruitment procedures as well as of the other terms and conditions issued by the AICTE in this behalf.*
>
> *(b) The State Government / Institutions are required to amend their Statutes, Memorandum of Association, Rules/ Schemes Regulations, Bye-Laws, as the case may be, in line with the scheme forthwith.*
>
> *(c) Anomalies, if any, in the implementation of the scheme may be brought to the notice of Directorate of Technical Education of respective State Governments for clarification.*

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

> *A Standing Committee will be constituted by Directorates of Technical Education of respective State Government for dealing with anomalies which may arise from time to time during implementation of the scheme of Revision of Pay Scale.*
>
> *(d) The State Governments, after taking local condition into consideration, may also decide in their discretion to introduce scales of pay different from those mentioned in the Scheme, and may give effect to the revised scales of pay from January 1, 1996 or a later date. In such cases, the details of the modification proposed either to the scales or pay or the date from which the scheme is to be implemented, should be furnished to the AICTE.*

This Notification dated 30 December 1999 was addressed to all Secretaries dealing with Technical Institutions of all State Governments and Union Territories. The recommendations were circulated to all the States by the Member Secretary of AICTE to the following covering communication. Under clause 2.2, it was stated that the revised pay scales, career advanced scheme and incentives for higher qualification given in the notification would be effective from 1 January 1996. Under clause 2.3, it was stated that the State Government taking into account the local conditions may implement the revised pay scales from a date later than 1 January 1996 and implement the pay scales other than those given in this notification, but not higher than the pay scales given in the tables. The pay scales were referred to clause 4 which in turn appended to Appendix A-1 and 2. Further details regarding qualifications,

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

recruitment, incentives for higher qualification, career advancement, counting of qualifying service for career advancement, teaching days, workload, effective date fitment formula and allowances were provided.

45. Clause 16.1 of the Circular dated 30 December 1999 are general guidelines as its title would suggest. Sub-clause (b) of Clause 16.1 states that the State Governments/ Institutions are required to amend their Statutes. Memorandum of Association, Rules/ Schemes, Regulations, Bye-Laws, as the case may be, in line with the Scheme. Clause 16.1(d) specified State Governments, after considering local conditions, may also decide, at their discretion, to introduce scales of pay different from those mentioned in the scheme and may give effect to the revised scales of pay from 1 January 1996 or a later date. In such cases, the details of the proposed modification, either to the pay scales or the date from which the scheme is to be implemented, should be furnished to the AICTE. Clause 2.3 called upon the State Governments to direct implementation of this Circular/order. Clause 16.1(b) suggests that if there is any conflict in existing rules, bylaws and regulations, the same should be amended to align with this Scheme. From this, a principle cannot be deduced that the State is denuded of its powers to call upon the Technical institutes to implement the AICTE prescribed pay scales.

43. The legislative relations between the Union and the

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

States are covered in Part XI of the Constitution of India in Articles 245 and 246, provide that the Parliament is empowered to make laws for the whole or any part of the territory of India with respect to any of the matters enumerated in List I in the Seventh Schedule ("Union List"), notwithstanding anything in clauses (2) and (3) of article 246 and the Parliament is empowered to make laws with respect to any of the matters enumerated in List III in the Seventh Schedule ("Concurrent List"), notwithstanding anything in clause (3) of article 246. The Parliament has enacted the AICTE Act in the exercise of its legislative power under Article 246(1) and (2) read with Entry 66 of List I (Union List) and Entry 25 of List III (State List). The MEPS Act has been enacted in relation to the subject mentioned in Entry 25 of List III (Concurrent List), *viz. "Education, including technical education, medical education and universities subject to the provisions of entries 63, 64, 65 and 66 of List I, vocational and technical training of labour*. It needs to be noted that AICTE is the nodal agency of technical education and the Director of Technical Education, the State, is responsible for technical education at the State level. Therefore, there has to be coordination between the two bodies and seamless implementation of AICTE recommendations; these norms are binding on the Technical Schools.

46. In reply affidavit filed in Writ Petition No. 1860 of 2005 by the Joint Director of Technical Education, State of Maharashtra, the State has supported the stand of the Petitioner that the

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Government has issued direction to implement the recommendation of 5th pay commission to the teaching staff of non-aided Technical Schools. However, it is stated that no financial assistance would be provided. The learned Advocate General asserts that the State has exercised its power under Article 162 of the Constitution of India in furtherance of the AICTE notification dated 30 December 1999 and has issued the Government Resolution. The record does not indicate that AICTE has taken any objection to the course of action adapted by the State. It is a matter of record in these petitions that there is a no challenge by the Technical school to the government resolutions issued by the State of Maharashtra. This challenge as far as Technical Schools are concerned, it has been concluded in *Teachers Association.* Thereafter there is no decision by this Court regarding technical School taking any view to the contrary.

47. Thus, the State Government has issued the Government Resolutions for the implementation of the AICTE scheme emanating from the Regulations framed by virtue of section 23 of the AICTE Act, 1987, providing for revision of the pay scale of employees of the non-government unaided Polytechnic Institutes, without effecting amendment in schedule 'C' of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Rules, 1981. The A.I.C.T.E. has made recommendations regarding the qualification and pay scales for teachers under Higher and Technical Education. The A.I.C.T.E. has prescribed the pay scales. In the exercise of its

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

power, the Council had framed the norms and standards for Technical Schools. including norms/guidelines of the pay scales payable to the teachers, qualifications and service conditions for teachers and other academic staff, which is to be implemented by the State Government. The Government, in fact, has accepted the recommendations issued by A.I.C.T.E. As the State has exercised the power under Article 162 of the Constitution of India. Here the dicta of the Supreme Court in the case of *Secretary Mahatma Gandhi Mission & Another v. Bhartiya Kamgar Sena & Others*[8] needs to be noted. It was observed thus:

> *"69. While the GR dated 12.08.2009 is specific in its declaration that the elaborate Rules contained therein dealing with the pay scales of the various cadres of the teaching staff of the educational institutions mentioned therein, it does not make any distinction between aided and un-aided colleges. However, the GR does not purport to be one made in exercise of the power under Section 8(3) of the Universities Act. It is agreed on all hands at the Bar that the expression "Government Resolution" in the Maharashtra Administrative jargon means a decision taken either in exercise of the authority of the State under Article 162 of the Constitution of India or in exercise of the authority under some statutory provision. No doubt the GR does not refer to the source which authorises the exercise of the power for revising the pay scales of the teaching staff of the various educational institutions mentioned therein. The mere absence of the recital of the source of power in our opinion cannot determine the legal status of the instrument or deprive the instrument of its efficacy.*
>
> *70. The difference between the authority of the State flowing from Article 162 of the Constitution or Section 8(3) of the Maharashtra Universities Act is two-fold. Firstly, the statutory authority under Section 8(3) could be abrogated anytime by the*

[8] Civil Appeal No.115-116/2017 decided on 5 January 2017.

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

> *legislature while the constitutional authority under Article 162 cannot be abrogated by the State Legislature. Secondly, the procedural requirements for the exercise of the power vary depending upon the nature of the source of the power, but the existence of power itself cannot be doubted.*
>
> *71. In our opinion, the GR dated 12.8.2009 can be safely construed to be one made in exercise of the power under Section 8(3) of the Universities Act conferring a legal right on the teaching staff of the affiliated colleges irrespective of the fact whether they are aided or not."*
>
> *(emphasis supplied)*

These observations are referred to and relied upon by the Division Bench of the Court in *Vishnu Jayawant Salunkhe* to hold in favour of the employees. We have not been shown any decision of the Apex Court overruling the view taken in *Vishnu Jayawant Salunkhe*.

48. This matter can be viewed from the another angle. The AICTE pay scales confer entitlements upon the Employees. They create legal rights which can be asserted against the Technical Schools by the Employees. It is crucial to emphasize that AICTE norms are not subject to the arbitrary discretion of the Technical Schools to disregard at will. Failure to adhere to these directions can result in legal ramifications and liabilities. These rights have been acknowledged and enforced through various court orders, and such enforcement has been consistently validated and upheld over time. That the AICTE norms are applicable to the Technical Schools is not in debate, only the manner of enforcement of the obligation. The

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

manner of enforcement of obligation of AICTE pay scales under the Regulations of the AICTE itself and there is no impediment as to why it cannot be done under executive power of the State which is of wide amplitude..

49. Until 1990, not all Technical Schools were subject to the provisions of the MEPS Act. The responsibility for setting pay scales and other employment conditions for teaching and non-teaching staff in technical institutions, including polytechnics and degree courses, was under the purview of the AICTE. The State Government adopted various resolutions to implement the recommendations made by the AICTE regarding qualifications and pay scales. The AICTE, established under the AICTE Act, is mandated to perform statutory functions and is the main organization in India's technical education landscape. As such, it has the authority to issue directives and instructions to the management of both aided and unaided institutions, as per the provisions of Section 4(3) of the MEPS Act, in conjunction with Section 3(1) of the same Act. Technical School are obliged to adhere to the directions issued by the AICTE, which includes directives related to pay scales and employment conditions for staff in polytechnic colleges and schools.

50. In view of the discussion and the conclusion that the decision in *Mahadeo More* does not govern the Technical Schools, the question is whether the view taken in *Mahadeo More* is correct

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

or whether the view taken in the decisions in the and *Teachers Association* followed in *Amrutraj Pratapji Vyas* is correct, need not be considered in an opposing positions. The view taken *Teachers Association* followed in *Amrutraj Pratapji Vyas* as regards polytechnics- schools covered by pay scales prescribed by AICTE is the correct position. .

51. As to the issue of whether there is repugnancy in the provisions of the MEPS Act and the MEPS Rules and the provisions of the AICTE Act, once it is held that the amendment to Schedule-C is not necessary for making the pay scales recommended by AICTE applicable to the employees of the Technical Schools, then the issue of repugnancy would be rendered academic. In the context of Technical Schools, there is no need for a comprehensive enquiry into the concept of repugnancy on all facets more than necessary for the provisions at hand. Even otherwise, this wider issue of repugnancy is considered by the Full Bench in *Anil Dattatray Ade*.

52. Nearly two decades ago, in *Teachers Association,* this Court upheld the power of the State Government to issue necessary directives for the enforcement of AICTE pay scales pertaining to employees in Technical Schools. This interpretation has been followed in various judicial decisions and accepted by the State Government, AICTE, and even various Technical Schools. No different decision either from this Court or the Supreme Court in respect of Technical School is shown. Before the Division Bench, the

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Technical Schools did not assert that Employees, if eligible, lacked a legal entitlement to the AICTE-prescribed Pay Scales. Their arguments were primarily concerned with the manner of implementation through government resolutions. Consequently, the Employees made a grievance before the Division Bench, that the Respondent-Technical Schools, without challenging the Government resolutions as they applied to them in their own petitions, were attempting to reopen settled issues in Employees' petitions based on inapplicable judicial decisions to delay payment and no reference to a larger bench was warranted. It is no doubt true that where necessary, a reference to larger bench to revisit a view can be made, but at the same time due regard is also needed for a position that has prevailed over a substantial period. Beyond the legal debates and the pursuit of answers to intricate legal questions, there exists another principle of legal certainty and stability. Uncertainty and frequent changes in settled legal positions can have both social and economic repercussions.

53. In conclusion, we answer the reference as follows:

(a) The Division Bench decision in the case of *Mahadeo More* is Not applicable to the teaching and non-teaching employees of the Technical Schools falling under Section 2(24) of the MEPS Act;

(b) Since the decision in *Mahadeo More* and the decision in

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

Teachers Association govern separate sets of employees working in the schools under the definition of Section 2(24) of the MEPS Act, the second question raised as to which one of these views taken in these decisions is correct does not arise for consideration as there is no conflict;

(c) In view of the answers to questions (a) and (b), question (c) is rendered academic;

(d) (i) The first part of question (d) as to whether there is a repugnance in the provisions of AICTE Act and the provisions of MEPS Act and MEPS Rules on the subject stands answered by the Full Bench of this Court in the case of *Anil Dattatray Ade.*

(ii) The strict compliance of the provisions of Sections 16 & 4 of the MEPS Act and Rule 7 of MEPS Rules and the amendment to Schedule C is not necessary for making the pay scales recommended by the AICTE applicable to the employees in the Technical Schools governed by MEPS Act and the MEPS Rules.

54. The Writ Petitions be placed before the Division Bench for disposal on merits.

(NITIN JAMDAR, J.)

(BHARATI DANGRE, J.)

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44

(SANDEEP V. MARNE, J.)

Uploaded on - 30/10/2023 Downloaded on - 21/09/2026 17:03:44