

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

WRIT PETITION (LODGING) NO.15009 OF 2026

- | | |
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| 1. Unaided Schools Forum, |] |
| Khar (W), Mumbai |] |
| 2. Subhash Chandra Kedia, |] |
| Secretary, Unaided School Forum |] |
| 3. Independent English Schools, |] |
| Bhosari, Pune |] |
| 4. Shridhar Sainath, |] |
| Treasurer, Independent English Schools |] |
| 5. Private Unaided School Management, |] |
| MIDC, Dombivali (E), Mumbai |] |
| 6. Ashok Salve, |] |
| Joint Secretary, Pvt. Unaided School Management |] |
| 7. Members of International Schools Association, |] |
| Malad (E), Mumbai |] |
| 8. Varun Shetty, |] |
| Treasurer, Members of Intl. School Association |] ..Petitioners |

Versus

- | | |
|---|-----------------|
| 1. State of Maharashtra, |] |
| Through General Administration Department |] |
| 2. Director of Census Operations, Maharashtra |] |
| 3. Charge Officer and Assistant Commissioner, |] |
| Municipal Corporation of Greater Mumbai. |] |
| 4. Charge Officer and Assistant Commissioner, |] |
| Navi Mumbai Municipal Corporation |] |
| 5. Charge Officer and Assistant Commissioner, |] |
| Nagpur Municipal Corporation |] |
| 6. Charge Officer and Assistant Commissioner, |] |
| Pune Municipal Corporation |] |
| 7. Charge Officer and Assistant Commissioner, |] |
| Pimpri-Chinchwad Municipal Corporation |] ..Respondents |

Mr. Venkatesh Dhond, Senior Advocate, with Mr. Tejas Popat, Mr. Priyansh R. Jain, Mr. Shamant Satiya and Mr. Sahil Panjwani, Advocates for the Petitioners.

Smt. Anjali Helekar, Government Pleader, with Smt. Jyoti Chavan, Additional Government Pleader and Mr. Suraj Gupte, Assistant Government Pleader for Respondent no.1-State of Maharashtra.

Mr. Rajshekhar Govilkar, Senior Advocate, with Mr. S.K. Halwasia, Ms. S.S. Halwasia i/b Ms. Sumangala Yadav, Advocates for Respondent No.2-Director of Census Operations.

Ms. Rupali Adhate with Mr. Pratik Garde, i/b Ms. Komal Punjabi, Advocates for Respondent No.3-BMC.

Mr. Tejas Dane, Advocate for Respondent No.4-N.M.M.C.

Mr. Rohit Sakhadeo with Mr. Nitesh Rangari, Advocates for Respondent No.7-P.C.M.C.

Mr. Yogesh Patil, Desk Officer, General Administration Department (GAD), Mantralaya is present in Court.

Mr. Santosh Payas, Joint Director of Census Operation Office, Maharashtra State is present in Court.

Dr. Pooja Desai, Charge Officer, R/S Ward, Dr. Ajit Pampatwar, Charge Officer, PS Ward, Dr. Dhiraj Pagar, Deputy Executive Health Officer are present in Court.

Mr. Kishor Nikhare, Administrative Officer of Respondent No.4 is present in Court.

**CORAM : GAUTAM A. ANKHAD &
SANDESH D. PATIL, JJ.**

DATE : 22ND MAY 2026

[VACATION COURT]

Per, Gautam Ankhad, J.

1. Heard. Issue notice to the Respondents, returnable after the summer vacation.

2. The Petitioner associations represent more than 500 private unaided and private unaided minority schools situated in Maharashtra. The Petitioners are impugning the notices, communications, appointment orders and actions of the Respondents identified at paragraph 42 of the Petition, whereby teachers and staff members of the Petitioners' member schools are sought to be compulsorily deployed for census duties under the provisions of the Census Act, 1948 ("Census Act") and the Census Rules, 1990 ("Census Rules").

3. Mr. Dhond, learned senior counsel appearing for the Petitioners, submits that the Petitioners require urgent interim protection since coercive steps by way of show cause notices and registration of First Information Reports have been initiated against teachers and staff members of the Petitioners' associations for the non-compliance with directions for census duties.

4. Mr. Dhond submits that on 16th June 2025, the Ministry of Home Affairs, Government of India issued a Notification under section 3 of the Census Act declaring that a census of population in India shall be conducted. The first phase for house listing and housing census is scheduled to be carried out between April 2026 and September 2026, during which Enumerators undertake house visits to collect data.

Pursuant to this notification, Respondent no.1 has begun the exercise of conducting census in the State of Maharashtra. Thereafter, the member schools of the Petitioners' associations received communications from Respondent nos.3 to 7 under sections 4, 4(2), 4(4) and 7 of the Census Act calling upon them to furnish details of their teaching and non-teaching staff for appointment as Enumerators and Supervisors. The Petitioners objected to the said requisition on the ground that the provisions of the Census Act do not authorize deployment of teachers employed in private unaided and minority institutions. Such deployment during academic sessions seriously prejudices the functioning of schools and adversely affects students' education. Despite this, several teachers/staff members of the Petitioners' member schools have been unilaterally appointed as Enumerators, Supervisors and/or other personnel under the provisions of the Census Act and Census Rules. In this regard, the appointment orders dated 27th February 2026 and 4th March 2026 issued by Respondent No.7, annexed at Exhibits "F-1" and "F-2" to the Petition are assailed by the Petitioners. Mr. Dhond further invited our attention to the chart at page 42 of the Petition to demonstrate the extent of disruption likely to be caused to the functioning of schools on account of deployment of a substantial portion of the teaching staff for census duties. The chart is extracted:

School	Teachers Appointed as Census Officers	Total Teachers
St. John's School (Mumbai)	133	133
St. Mary's ICSE School, Koparkhairne	75	96
City International School, Pimpri	55	72
Chatrabhuj Narsee School, Pune	111	144
Royal World School, Pune	37	58
Isaac Newton Global School, Vasai	52	68

5. Mr. Dhond submits that the Respondents have no power under the Census Act or the Census Rules to compel the teachers in private unaided schools to undertake the census duty. The impugned actions violate the fundamental rights guaranteed under Articles 14, 19(1)(g), 29, and 30(1) of the Constitution of India. Such action amounts to impermissible interference with the autonomy of the Petitioners' member schools in matters of its internal administration, deployment of staff and imparting of education.

6. Mr. Dhond refers to the appointment letters issued by Respondent nos. 3 to 6 (i.e, the Municipal Corporations-Charge Officers) under sections 4, 4(2), 4(4), 6, and 7 of the Census Act and submits that the said Charge Officers have no authority to in turn appoint Census Officers and thus the impugned notices at Exhibits D-1 to D-4 of the petition are

illegal. He further submits that the Respondents' reliance on section 4(4) of the Census Act is misconceived. Section 4(4) of the Census Act merely empowers the State Government to delegate its authority to appoint Census Officers, but no material has been placed on record to demonstrate that such power was delegated by Respondent no.1 in favour of Respondent nos.3 to 7. Thus the appointment orders, including the order dated 27th February 2026 issued by the Assistant Commissioner and Charge Officer, are without authority and jurisdiction.

7. Mr. Dhond submits that the Respondents cannot rely upon sections 4A, 6 and 7 of the Census Act to requisition their employees for census work. As per section 4A, only a “local authority” is under a statutory obligation to make available its staff for census duties. Private unaided and private unaided minority schools do not fall within the definition of “local authority”. It is therefore submitted that the Petitioners have made out a strong prima facie case for grant of interim reliefs. In support of the aforesaid submissions, reliance was placed on the following decisions and interim orders passed by the Coordinate Bench of this Court:

- (i) *Judgment of the Division Bench of the Gujarat High Court, dated 5th February 2019, in Registrar General and Census Commissioner of India v. Life Insurance Corporation of India Ltd.*¹

¹ Letters Patent Appeal no.244 of 2019 (High Court of Gujarat)

- (ii) Order dated 8th May 2026 passed in *Rucha Shriram Deshpande & Ors. v. Union of India, Thru. its Secretary, Department of Home Affairs, New Delhi & Ors.*²
- (iii) Order dated 10th April 2026 passed in *The Sikh Education Society, Bezon Bagh, Nagpur, Thru. its General Secretary & Ors. v. Union of India, Thru. its Secretary, Department of Home Affairs (MHA), New Delhi & Ors.*³
- (iv) Order dated 30th April 2026 passed in *Lokmanya Tilak Jankalyan Shikshan Sanstha, Laxmi Nagar, Nagpur, Thru. its President & Ors. v. Union of India, Thru. its Secretary, Department of Home Affairs (MHA), New Delhi & Ors.*⁴
- (v) Order dated 4th May 2026 passed in *The Sikh Education Society, Nagpur, Thru. its General Secretary & Ors. v. Union of India, Thru. Secretary, Department of Home Affairs, New Delhi & Ors.*⁵
- (vi) Order dated 4th May 2026 passed in *CBSE Schools Staff Welfare Association, Thru. President, Deepali M. Dably & Ors. v. The Union of India, Thru. Secretary, Department of Home Affairs, New Delhi & Ors.*⁶
- (vii) *Gokul Shrirang Mundhe & Ors. v. State of Maharashtra & Ors.*⁷

8. On the other hand, Ms. Helekar, learned Government Pleader appearing for Respondent no.1-State opposes the Petition and submits that the census exercise is one of the largest administrative and statistical exercises undertaken in the country and requires coordinated

² Writ Petition no.4040 of 2026 (Nagpur Bench)

³ Writ Petition no.3004 of 2026 (Nagpur Bench)

⁴ Writ Petition no.3636 of 2026 (Nagpur Bench)

⁵ Writ Petition no.3612 of 2026 (Nagpur Bench)

⁶ Writ Petition no.3666 of 2026 (Nagpur Bench)

⁷ 2017 SCC OnLine Bom 10083

participation of various departments and personnel. The teachers/staff deployed for census duties would be paid an honorarium in addition to their regular salaries. Most of the schools are presently closed for summer vacation and thus there would not be any disruption to academic activities or prejudice to students.

9. Ms. Helekar further submits that the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (“RTE Act”) expressly authorizes the State Government to deploy teachers, including those employed in unaided and minority institutions, for census duties. Reliance is placed upon the definition of “school” under section 2(n) of the RTE Act, which includes unaided schools, as well as section 27 which carves out an exception permitting deployment of teachers for decennial population census, disaster relief duties and elections. It is urged that there is no restriction under the Census Act limiting the power of the State Government to requisition teachers. Reliance is also placed upon sections 4, 6 and 7 of the Census Act to contend that every person in charge of an educational institution may be required to assist in the census exercise. Reliance is also placed upon Rules 2(d), 3 and 5(5)(a) of the Census Rules as well as the Circular no.2 dated 29th December 2025 issued by the Government of India to contend that teachers can be

appointed as Enumerators. Ms. Helekar sought to distinguish the five orders passed by the Coordinate Bench of this Court by stating that the same are interim orders and do not lay down any binding ratio. As regards the judgment of the Gujarat High Court in *Life Insurance Corporation Limited*, she submits although a Special Leave Petition has been admitted, no stay is granted. In addition, she submits that the Petitioner has not shown any judgment which expressly holds that teachers from unaided institutions are exempted from census activities and contends that there is no merit in the Petition.

10. Mr. Rajshekhar Govilkar, learned senior counsel appearing for Respondent no.2-Director of Census Operations also relied upon Rule 3 read with Rule 5(5)(a) of the Census Rules and submits that the statutory scheme contemplates appointment of the Director of Census Operations for each State and empowers the Municipal Commissioners, being Principal Census Officers to appoint Charge Officers and other personnel. Reliance is placed upon the notification dated 23rd December 2025 issued by the State Government under section 4(2) of the Census Act appointing the persons mentioned in Column no.2 of the Schedule appended thereto as Census Officers. By virtue of section 4(3) of the Census Act, the written declaration evidencing such appointment

constitutes conclusive proof thereof. Hence it is submitted that the order dated 27th February 2026 issued by the Assistant Commissioner and Charge Officer is in accordance with law.

11. Mr. Govilkar further submits that the Petitioners are attempting to create an artificial distinction between teachers employed in Government/ aided schools and those employed in unaided private schools, as both categories are included within the definition of “school” under the RTE Act. He submits that section 4(2) of the Census Act read with Rule 3 of the Census Rules specifically authorizes appointment of teachers, clerks and other officials as Enumerators. According to him, when the provisions of the Census Act, Census Rules and section 27 of the RTE Act are read conjointly, the impugned actions cannot be said to be without authority of law.

12. Mr. Govilkar lastly submits that the Petitioners have failed to satisfy the triple test of *prima facie* case, balance of convenience or irreparable injury warranting grant of interim protection. On the contrary, any delay in the census exercise would adversely affect governmental planning and policy decisions. It is therefore submitted that no interim reliefs ought to be granted.

Reasons and findings:

13. Having heard the learned counsel appearing for the parties and upon perusal of the material placed on record, *prima facie*, we find merit in the Petitioners submission that neither the provisions of the Census Act nor the Census Rules expressly cast any statutory obligation upon the Petitioners who are employed under association of private unaided and private unaided minority schools to make available their teaching and non-teaching staff for census duties.

14. For convenience, the relevant statutory provisions of the Census Act and RTE Act are reproduced hereunder:

Census Act

“4. *Appointment of census staff—*

- (1) *The Central Government may appoint a Census Commissioner to supervise the taking of the census throughout the area in which the census is intended to be taken, and Directors of Census Operations to supervise the taking of the census within the several States.*
- (2) *The State Government may appoint persons as census-officers [with such designations as that Government may deem necessary] to take, or aid in, or supervise the taking of, the census within any specified local area and such persons, when so appointed, shall be bound to serve accordingly.*
- (3) *A declaration in writing, signed by any authority authorised by the State Government in this behalf, that any person has been duly appointed a census-officer for any local area shall be conclusive proof of such appointment.*

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

"4A. Staff of every local authority to be made available for taking census-

Every local authority in a State shall, when so directed by a written order by the Central Government or by an authority appointed by that Government in this behalf, make available to any Director of Census Operations such staff as may be necessary for the performance of any duties in connection with the taking of census."

"6. Discharge of duties of census-officers in certain cases—

- (1) *Where the District Magistrate, or such authority as the State Government may appoint in this behalf, by a written order so directs—*

- (a) *every officer in command of any body of men belonging to the naval, military or air forces, or of any vessel or war, of India,*
- (b) *every person (except a pilot or harbourmaster) having charge or control of a vessel,*
- (c) *every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up or of any public, charitable, religious or educational institution,*
- (d) *every keeper, secretary or manager of any sarai, hotel, boarding-house, lodging-house, emigration depot or club,*
- (e) *every manager or officer of a railway or any commercial or industrial establishment, and*
- (f) *every occupant of immovable property wherein at the time of the taking of the census persons are living,*

shall perform such of the duties of a census-officer in relation to the persons who at the time of the taking of the census are under his command or charge, or are inmates of his house, or are present on or in such immovable property or are employed under him as may be specified in the order."

“7. Power to call upon certain persons to give assistance—

The District Magistrate, or such authority as the State Government may appoint in this behalf for any local area, may, by written order which shall have effect throughout the extent of his district or of such local area, as the case may be, call upon—

- (a) all owners and occupiers of land, tenure-holders, and farmers and assignees of land revenue, or their agents,*
- (b) all members of the district, municipal, panchayat and other local authorities and officers and servants of such authorities, and*
- (c) all officers and members of staff of any factory, firm or establishment,*

to give such assistance as shall be specified in the order towards the taking of a census of the persons who are, at the time of the taking of the census, on the lands of such owners, occupiers, tenure-holders, farmers and assignees, or in the premises of factories, firms and other establishments, or within the areas for which such local authorities are established, as the case may be, and the persons to whom an order under this section is directed shall be bound to obey it and all, while acting in pursuance of such order, be deemed to be public servants within the meaning of the Indian Penal Code (45 of 1860).”

RTE Act

“2(n) “school” means any recognised school imparting elementary education and includes -

- (i) a school established, owned or controlled by the appropriate Government or a local authority;*
- (ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority.*
- (iii) a school belonging to specified category; and*
- (iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.”*

“27. Prohibition of deployment of teachers for non-educational purposes -

No teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislatures or Parliament, as the case may be.”

15. Section 4A of the Census Act obligates only a “local authority” to make available its staff for the purposes of census operations. Though the expression “local authority” is not defined under the Census Act, section 3(31) of the General Clauses Act, 1897 defines it to mean “*a Municipal Committee, District Board, Body of Port Commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund*”. The private unaided and private unaided minority schools are not and cannot be brought within the ambit of a “local authority” so as to attract the compulsory obligations contemplated under section 4A of the Census Act.

16. We may note that sections 6 and 7 of the Census Act also do not confer any authority upon the State to compulsorily requisition the teaching and non-teaching staff of private unaided schools for census duties. Section 6 merely contemplates limited assistance by specified categories of persons in relation to individuals who are under their

charge, supervision or control at the time of the census. This is clear from the words “persons in charge” of vessels, institutions, establishments, factories and tenure holders etc for the purpose of facilitating census operations in relation to persons under their charge, supervision or control. The expression “*every person in charge of ... educational institution*” in section 6(1)(c) cannot be read in isolation or divorced from the context in which it appears. A holistic reading of section 6 indicates that the obligation contemplated therein is confined to facilitating census operations in respect of persons present within such institution, residing therein or otherwise under the charge or supervision of such person, pursuant to an order issued under section 6 by the District Magistrate. The said provision does not confer any power upon the State to compulsorily requisition the teaching and non-teaching staff of unaided private schools.

17. Similarly, section 7 of the Census Act does not support the Respondents’ contention. Section 7(b) applies to members and officers of local authorities. It is not even the Respondents’ case that private unaided schools constitute a “factory”, “firm” or “establishment” within the meaning of section 7(c). Even otherwise, the assistance contemplated under section 7 is only towards facilitating the census operation in

relation to persons within such premises and not for compulsory appointment of employees as Enumerators or Supervisors. In this regard, it is useful to refer to the decision of Division Bench of the Gujarat High Court in *Life Insurance Corporation of India Limited* where J.B. Pardiwala, J. (as His Lordship then was) held that section 7 of the Census Act does not empower the authorities to requisition employees of statutory corporations as Enumerators or Supervisors. The Court observed that while section 7 enables authorities to seek assistance, it does not confer power to appoint or requisition employees for census duties. The relevant observations are extracted below:

13. *Section 7(c) of the Census Act empowers the District Magistrate to call upon all the officers and members of the staff of any factory, firm or establishment to render assistance towards taking of a census of the persons, who are, at the time of taking of the census, in the premises of factories, firms and other establishments, as the case may be. It is, therefore, evident that under Section 7(c) the District Magistrate can take assistance of the officers and members of staff of any establishment towards taking the census of persons, who are, at the time of taking of census, in the premises of the establishment only.*

....

21. *We are of the opinion that the view taken by the learned Single Judge of this Court is quite reasonable and meaningful. The conjoint reading of Sections 4 and 7 of the Act would make it clear that Section 4 of the Act refers to the power of appointment of the Census Officer, Enumerators, etc. for the purpose of census work either by or through the Director of Census appointed by the Central Government or by the State Government which, in turn, can appoint his own staff for the purpose of such census work. The learned Single Judge has rightly noted the point of distinction in this regard. Section 7 of the Act does not empower or confer the*

power, jurisdiction or authority to make any such requisition. All that Section 7 provides for is the power to seek the assistance and to call the persons for the assistance. In such circumstances, it cannot be said that Section 7 refers to any power of the State Government or Central Government to make an appointment/requisition of the Census Officer from any corporation or establishment.

22. *It is a settled principle of law that the rules and/or notifications cannot travel beyond the statute. When the Census Act itself does not confer any power, jurisdiction or authority to appoint the employees of the Corporation Supervisors, then the appellants, on their own, cannot assume Enumerators or such jurisdiction or power. Section 4 of the Census Act does not empower the Central Government or the State Government to appoint the employees of the Corporation as the Enumerators or Supervisors.”*

18. The interim orders of Co-ordinate Bench of this Court relied upon by Mr. Dhond also indicate a consistent prima facie view adopted by this Court as well as other High Courts that teachers employed in unaided educational institutions cannot be deputed for election or census duties.

19. We are unable to accept Ms. Helekar’s argument that section 27 of the RTE Act, by itself, authorizes deployment of teachers employed in private unaided or minority schools for census duties. Section 27 merely carves out exceptions to the general prohibition against deployment of teachers for non-educational purposes. The said provision cannot be construed as an independent source of substantive power authorizing compulsory requisition of teachers in the absence of a specific enabling provision under the Census Act itself. The reliance placed upon the

definition of “school” under section 2(n) of the RTE Act also does not conclusively answer the controversy arising in the present proceedings. Merely because unaided schools are included within the definition of “school” under the RTE Act would not *ipso facto* authorize the State to divert their teaching staff for non-academic statutory functions. On the contrary, the RTE Act is a child-centric legislation and its object is to protect the educational interests of children. The scheme of the RTE Act itself indicates that where additional duties are intended to be imposed upon teachers, the same must be supported by statutory rules. Section 24(1)(f) permits teachers to perform “*such other duties as may be prescribed*”. Section 2(l) defines the expression “prescribed” to mean “*prescribed by rules made under the Act*”. Further, sections 38(1) read with 38(2)(m) empower the appropriate Government to frame rules specifying the duties to be performed by teachers under section 24(1)(f). No rule framed under section 38 of the RTE Act has been brought to our notice that authorizes compulsory deployment of teachers employed in private unaided schools for census duties. *Prima facie*, therefore, section 27 is not itself a source of power.

20. Ms. Helekar seeks to rely upon the judgment of a Co-ordinate Bench in *Thane Zilla Madhyamik Shikshak Sangh v. State of*

*Maharashtra*⁸ wherein this Court held that the work of an Enumerator for updation of the National Population Register does not fall within the exceptions contemplated under section 27 of the Act, since such exercise does not constitute a census. Proceeding on that basis, Ms. Helekar submits that, as the present matter pertains to census operations, the exception under section 27 must necessarily be given full effect. The submission cannot be accepted. It is well settled that a judgment is an authority for what it actually decides and not for what may be inferred from it. The aforesaid decision only holds that updation of the National Population Register is not a census within the meaning of section 27. It does not lay down any positive proposition that, in every case involving census operations, private unaided educational institutions are under a mandatory obligation to place their staff at the disposal of the authorities.

21. Mr. Govilkar relies upon Rule 3 of the Census Rules and in particular serial no.5 of the Table to contend that “*Teachers, Clerks or any official or any person*” may be appointed as Enumerators. For convenience, Rule 3 is extracted:

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

⁸ Judgment dated 28th September 2016 in Civil Writ Petition No. 10917 of 2015 and connected matters

TABLE

Sr.No.	Designation	Officers to be appointed
	1	2
1.	Principal Census Officer	District Collectors / Magistrates / Commissioners or Administrative Heads of Corporations or any nominated Officer.
2.	District / Additional District / Deputy District / Sub-Divisional District / City / Additional City Census Officer	District Collectors / Magistrates / Officers assisting District Collectors / Magistrates / Commissioner / District Sub-Divisional Officers or Revenue Divisional Officers
3.	Charge Officer / Assistant Charge Officer / Additional Charge Officer and Sub-Charge Officer	Tehsildars / Additional Tehsildars / Maklatdars / Block Development Officer / Chief Administrative Officer of towns / Executive Officers and other Officers.
4.	Supervisor	Officers generally of a rank higher than Enumerators or any person.
5.	Enumerator	Teachers, Clerks or any official or any person.”

22. We cannot accept this submission as in our view, this must be read contextually. The categories of officers specified at serial nos.1 to 4 in the table appended to Rule 3 are all government or public officers. Therefore, the expression “teachers” appearing at serial no.5 would, *prima facie*, have to be construed *eiusdem generis* as referring to teachers employed in Government or aided institutions. If the Respondents argument is accepted, the expression “any person” occurring at serial no.5 could extend to private individuals and independent professionals such as doctors, advocates or chartered accountants. Such an interpretation would lead to an absurdity and is not contemplated by the Census Act. It is well settled that subordinate

legislation cannot travel beyond the scope of the enabling enactment. Therefore, Rule 3 cannot be interpreted so as to authorize compulsory deployment of teachers employed in private unaided schools for census duties. The Respondents' reliance on Rule 5(5)(a), i.e., "*The Charge Officer shall cause the required number of Supervisors and Enumerators to be appointed within the jurisdiction of his charge*" is equally misconceived. The said provision merely prescribes the duties and functions of Census Officers and obligates the Charge Officer to ensure availability of the requisite number of Supervisors and Enumerators. It is not an independent source of substantive power authorizing compulsory requisition of private school teachers.

23. The contention of the Respondents that the present exercise is being undertaken during the summer vacation period also cannot be accepted as an answer to the Petitioners' grievance. The material placed on record, including the chart at page 42 of the Petition indicates that substantial teaching staff attached to several schools have been requisitioned for census duties. This will disrupt the regular academic activities and impair the right of students to uninterrupted education. Hence, interim protection cannot be denied. On the other hand, the census exercise can always be undertaken through governmental

machinery, local authorities or aided institutions, which the statutory framework itself contemplates. Consequently, the balance of convenience is in favour of the Petitioners and no irreparable prejudice would be caused to the Respondents if interim protection is granted.

24. At this interim stage and in view of the above, we are not inclined to conclusively examine the other contention urged by Mr. Dhond regarding the absence of authority or jurisdiction of the concerned Charge Officers and Assistant Commissioners to appoint Census Officers under section 4 of the Census Act. The issue regarding delegation of powers by the State Government is expressly kept open to be considered at the stage of final hearing.

25. In the aforesaid circumstances and for the above reasons, the following interim order is passed:

“(c) Pending the hearing and final disposal of the present Petition, this Hon’ble Court be pleased to stay the operation and implementation of the notices, communications, appointment orders and consequential actions issued by the Respondents, as more particularly set out in paragraph 42, as well as any other similar notices, communications or orders issued for requisitioning or deploying teachers of the Petitioners’ member schools for census duties under the provisions of the Census Act, 1948 and the Census Rules, 1990 and restrain the Respondents from taking any steps in furtherance thereof;

- (d) *Pending the hearing and final disposal of the present Petition, restrain the Respondents, their officers, servants and agents from issuing any further notices, communications or orders compelling or requiring teachers and/or employees of the Petitioners' member schools to perform census duties under the provisions of the Census Act, 1948 and the Census Rules, 1990.*
- (e) *Pending hearing and final disposal of the present Petition, restrain the Respondents from taking any coercive steps or precipitative criminal action against teachers/employees of the Petitioners' member schools for not performing census duties under the provisions of the Census Act, 1948 and the Census Rules, 1990."*

26. Affidavit-in-reply shall be filed within four weeks from today. Rejoinder, if any, shall be filed within two weeks thereafter. It is clarified that the observations made herein are prima facie in nature and confined to consideration of interim relief. List the matter on 31st July 2026 for final disposal.

[SANDESH D. PATIL, J.]

[GAUTAM A. ANKHAD, J.]