

**IN THE HIGH COURT OF MANIPUR**

**AT IMPHAL**

**WP(C) No. 112 of 2025 with**  
**MC(WP(C) No. 111 of 2025 with**  
**MC(WP(C) No. 174 of 2025 with**  
**MC(WP(C) No. 478 of 2025**

1. The Kumbi College, Kumbi, a registered Society bearing Registration No. 5924 of 1985 represented by its Chairman, Shri Moirangthem Mangi Singh, aged about 92 years, S/o (L) M. Jadob Singh, resident of Kumbi Thong Leikai, Kumbi Ward No. 5, P.O. Moirang, P.S. Kumbi, District Bishnupur, Manipur-795133.

***..... Petitioner/s***

**- Versus -**

1. The State of Manipur represented by the Secretary (Hr. & Tech. Education), Government of Manipur, Secretariat South Block, Babupara, P.O. & P.S. Imphal, District Imphal West, Manipur-795001.
2. The Director of Univ. & Higher Education, Government of Manipur, Office at Nityaipat Chuthek, P.O. & P.S. Imphal, District Imphal West, Manipur-795001.
3. Shri Sanasam Premchandra Singh, aged about 48 years, S/o (L) Sanasam Jaramajao Part-2, Near Public Community Hall, P.O. Moirang, P.S. Kumbi, District Bishnupur, Manipur-795133.
4. Shri L. Gopal Singh, aged about 65 years, resident of Khudekpi Mamang Leikai, P.O. & P.S. Moirang, District Bishnupur, Manipur-795133; former Head of Department, Political Science Department, Kumbi College, Kumbi.

***..... Respondent/s***

**B E F O R E**

**HON'BLE MR. JUSTICE A. GUNESHWAR SHARMA**

For the Appellant/s	::	Mr. N. Kumarjit, Sr. Adv. assisted by Mr. Th. Monish Anand, Adv.
For the respondent/s	::	Mr. Th. Sukumar, G.A. on behalf of Mr. Ashang, G.A.; Mr. N. Mahendra, Adv. along with Mr. S. Samungou, Adv. for R3.
Date of hearing	::	25.07.2025
Date of Judgment & Order	::	<b>31.07.2025</b>

## **JUDGMENT & ORDER (CAV)**

**[1]** Heard Mr. N. Kumarjit, learned senior counsel assisted by Mr. Th. Monish Anand, learned counsel for the petitioner, Mr. Th. Sukumar, learned G.A. appearing on behalf of Mr. Y. Ashang, learned G.A. for respondent Nos. 1 & 2 and Mr. N. Mahendra, learned counsel along with Mr. S. Samungou, learned counsel for respondent No. 3. None appeared on behalf of respondent No. 4 in spite of service.

**[2]** By the present writ petition, the petitioner which is Kumbi College, Kumbi, a registered Society bearing Registration No. 5924 of 1985 represented by its Chairman Shri Moirangthem Mangi Singh, approached this Court, inter-alia, praying for setting aside the order dated 03.02.2025 issued by respondent No. 3 appointing respondent No. 4 as Principal of Kumbi College, Kumbi and in supersession of his superannuation on 06.02.2025 for a period of 6 (six) months and also directing the State respondent not to grant approval of the appointment of Principal of respondent No. 4 in violation of provisions of the Manipur Education Code, 1982 and prays for interim relief of staying the impugned order dated 03.02.2025.

**[3]** This Court issued notice. However, did not grant any stay of the impugned order.

**[4]** The main ground for challenge is that the meeting of the Governing Body held on 30.01.2025 was non-existence and the same was in violation of the provisions of Manipur Education Code, 1982. On 25.07.2025 when the matter was taken up for hearing and since the tenure of the impugned order was to expire on 03.08.2025 and without going into merit, this Court proposed to dispose of the present writ petition by passing an innocuous order directing the Governing Body of the Kumbi College to appoint the Principal of the College as per Manipur education Code, 1982. Mr. N. Mahendra, learned counsel for the respondent No.3 insisted that the writ petition be decided on merit and he raised the question of maintainability. In the circumstances, this Court is constrained to hear this matter on merit and makes an endeavour to dispose of the same before expiry of the tenure of the impugned order.

**[5]** Mr. N. Kumarjit, learned senior counsel for the petitioner, submits that the Governing Body of Kumbi College was constituted by order dated 16.12.2024 issued by the Director of University and Higher Education, Government of Manipur comprising of the petitioner herein as Chairman and respondent No. 3 as Secretary and 8 (eight) other office-bearers for a term of 3 (three) years.

**[6]** In pursuant to the representation dated 20.01.2025 submitted by the faculty members of the college for appointment of new Principal of College as the then Principal was due to retire on 30.01.2025, the Governing Body held a meeting on 21.01.2025 and 4 (four) names of the HoD of various subject were shortlisted for appointment of the next Principal and a Screening Committee consisting of the Principal and 2 (two) other members was also constituted. On 27.01.2025, the Governing Body of the College resolved that application for the post of Principal would be accepted by 28.01.2025 at 1:00 pm and the Screening Committee would seat on 29.01.2025 and emergency general body meeting would be held on 30.01.2025 to examine and nominate new Principal from the report of the Screening Committee.

**[7]** A notice dated 28.01.2025 was issued by the Secretary of the Governing Body for an emergency general body meeting to be fixed on 30.01.2025 at 1:00 pm with the agenda for appointment of the Principal. It is stated that on 30.01.2025, the meeting of the Governing Body could not be convened for lack of quorum and objection raised by certain members against the continued membership of the respondent No. 3 as the Secretary.

**[8]** Mr. N. Kumarjit, learned senior counsel for the petitioner, has pointed out that the petitioner learnt that the respondent No. 3 manufactured a proceeding/resolution of the Governing Body of the Kumbi College purported to be held on 30.01.2025 and prepared a resolution recommending respondent No. 4 as Principal of the Kumbi College.

**[9]** Thereafter, the petitioner submitted a representation dated 30.01.2025 to the Director, University and Higher Education, Government of Manipur stating that he did not sign any proceeding of the meeting held on

30.01.2025 as Chairman and requested to nullify the proceeding of the alleged meeting held on 30.01.2025.

**[10]** On the basis of resolution No. 3 of the purported meeting held on 30.01.2025, the respondent No. 3 appointed the respondent No. 4 as Principal of the Kumbi College for a period of 6 (six) months after supersession of his superannuation with effect from 06.02.2025.

**[11]** The impugned order is challenged amongst the following grounds that:

- (i) The Manipur Aided College Employees (Service) Rules, 1974 as provided in Chapter XI Section I of the Manipur Education Code, 1982 stipulated in Rule 4(A)(v) that the Governing Body shall make appointment of the Principal after obtaining prior approval of the Director of Education i.e. the Director of Univ. & Higher Education, Government of Manipur. In the present case, the appointment of the respondent No. 4 issued by the respondent No. 3 vide impugned order dated 03.02.2025, has not been approved by the Director, University and Higher Education, Government of Manipur till date and as such, the impugned order dated 03.02.2025 cannot be sustained, as the same is in violation of the Manipur Education Code, 1982.
- (ii) Chapter XI and Section IV Clause 18(b)(i) of the Manipur Education Code, 1982 provides that the staff of an aided college (including Principal) shall possess the minimum qualifications laid down by the University and their appointment shall be made in accordance with the procedure prescribed by the Government in this behalf and prior approval of the Director will be necessary in each specific case.
- (iii) The procedure prescribed in the Manipur Education Code, 1982 for appointment of Principal of Aided College was

not followed in the present case prior to issuance of impugned order dated 03.02.2025.

- (iv) As provided under Chapter XI Section IV Clause 18(c) of the Manipur Education Code, 1982, no person who does not possess the qualifications for similar post under the Government shall be appointed in an Aided College and in the present case, the Principal of Government College is to retire at the age of 62 years, even though a teacher can continue upto 65 years as a teaching faculty. In the present case, the respondent No. 4 exceeds the age of 65 years and as such, he cannot, even if, consider for appointment as teaching staff in the college, as no person beyond the age of 62 years can be appointed as Principal of Aided College.

**[12]** The respondent No.4's date of birth is 07.02.1960 and he has to superannuate on 06.02.2025 on attaining the age of 65 years. It is prayed that the impugned order dated 03.02.2025 be set aside and State respondent be directed not to issue any approval for appointment of Principal of Kumbi College in violation of Manipur Education Code, 1982.

**[13]** State respondent did not file any counter affidavit. However, Mr. Th. Sukumar, learned G.A. appearing on behalf of Mr. Y. Ashang, learned G.A., fairly concedes that till date, no approval has been accorded by the Director, University and Higher Education, Government of Manipur for appointment of the respondent No. 4 as Principal of Kumbi College.

**[14]** Respondent No. 4 did not appear in spite of service. However, the respondent No. 3 (Secretary) filed an affidavit-in-opposition raising the question of maintainability of the writ petition on the ground that:

- (i) The writ petition has been filed by concealing and suppressing important facts and the Chairman of the Governing Body of the College, who filed writ petition in his representative capacity, does not have locus for filing

the same and any of his legal right has not been violated in any way by the order dated 03.02.2025.

- (ii) The writ petition is not maintainable as actively concealing and suppressing certain facts by the petitioner, miscoding the provision of Manipur Education Code, 1982.
- (iii) The petitioner has no locus as he has no personal right in the appointment. The petitioner in the representative capacity as Chairman of the Governing Body of the Kumbi College, filed the writ petition challenging the impugned order dated 03.02.2025 passed by the Secretary of the Governing Body pursuant to resolution No. 3 of the emergency general body meeting held on 30.01.2025 to which the petitioner himself presided as Chairman but refused from signing the proceeding. The respondent No. 4 was appointed as Principal of the Kumbi College vide impugned order dated 03.02.2025 pursuant to the resolution No. 3 of general body meeting held on 30.01.2025 which was presided by the petitioner himself but refrained from signing the proceeding due to his personal agenda.

**[15]** Mr. N. Mahendra, learned counsel for the respondent No. 3, has stated that the impugned order dated 03.02.2025 was issued by invoking Chapter XI Section I Rule 5 of the Manipur Education Code, 1982 for temporary filling up of the vacancy and appointment of substitute. The respondent No. 4, being the seniormost having most experience, his service was extended and was appointed as Principal only for a period of 6 (six) months vide impugned order dated 03.02.2025, as an interim measure till a regular Principal was appointed in terms of Chapter XI Section I Rule 4 of the Manipur Education Code. The Writ petition is bad for non-joinder of necessary party, i.e. Governing Body of the Kumbi College. It is also submitted orally that only Secretary of the Governing Body is competent person to sue or to be sued on behalf of the Governing Body in terms of Article 26 of the constitution/regulation of the Governing Body dated 21.08.1984.

**[16]** On merit, it is stated that the averment made in the writ petition are false, misleading, fictitious and frivolous. It is prayed that the writ petition be dismissed limine for suppression of the material facts.

**[17]** Along with counter affidavit, the respondent No. 3 filed a proceeding of the Governing Body Meeting held on 30.01.2025 in which the Chairman of the Governing Body, i.e. the petitioner herein, did not sign and it was blank.

**[18]** Respondent No. 3 also filed additional affidavit along with CD for the meeting held on 30.01.2025 and also raising the contention of the maintainability that as per Article 26 of the regulation of the society i.e. constitution of Kumbi College, emphasising that only the Secretary is the competent person to file suit by or against the college.

**[19]** The petitioner filed reply affidavit to the counter affidavit filed by respondent No. 3 stating that the petitioner is the Founder Secretary of the Society registered on 27.02.1985 vide No. 5924 under the provisions of the Societies Registration Act, 1860. The Manipur Societies Registration Act, 1989 repealed the application of Societies Registration Act, 1860 in the State of Manipur. Section 19 of the Manipur Societies Registration Act, 1989 provides that a society may sue or may be sued in the name of the President, Secretary or any other office bearers authorized by the Registrar in this behalf and Section 32 of the Act repeals the Societies Registration Act, 1860 in its application in the State of Manipur keeping in continuity act done earlier. However, proviso (a) to Section 32(2) says that any repugnant provision of the bye law of the society registered under the Act of 1860 with the Act of 1989 will have to be amended within 6 (six) months, failing which it shall be deemed to be void to that effect.

**[20]** Mr. N. Kumarjit, learned senior counsel for the petitioner, has submitted that on joint reading Sections 19 and 32 of the Manipur Societies Registration Act, 1989, it is clear that these provisions have superseded the Article 26 of the Constitution of Governing Body providing only Secretary as competent person to file suit by or against the Society. It is pointed out that Section 19 of the Act of 1989 provides that President, Secretary and any



office-bearer will be competent to file suit on behalf of the Society, thereby meaning that Chairman of the Governing Body is also competent person in view of the proviso (a) to Section 32(2) of the Act of 1989 and hence, the present writ petition is maintainable in the present form.

**[21]** Learned senior counsel for the petitioner relies on the decision reported as **(2013) 4 SCC 465** that writ petition can be filed for any order issued in breach of the statutory provision. Learned senior counsel for the petitioner refers to the decision reported as **(2021) 4 SCC 57** to the effect that Society is the competent to espouse the cause of its members. It is stated that no specific instance of misrepresentation and concealment has been pointed out by the learned counsel for the respondent No. 3. It is also stated that Chapter XI Section I Rule 11 of the Manipur Education Code, 1982 will not be applicable, as the Governing Body is not aggrieved by any order passed by the Director of Education. It is further submitted the appointment of the respondent No.4 as Principal of Kumbi College was made in violation of the mandatory provisions of the Code of 1982 as pointed out above.

**[22]** Mr. Th. Sukumar, learned G.A., submits that the issue is between the petitioner and the respondent Nos. 3 & 4 and the State Government has no role in the present petition. However, he clarifies that till date, the Director of University and Higher Education, Government of Manipur has not issued any approval order to the proposal for appointment of the respondent No. 4 as Principal of Kumbi College. In the circumstances, this Court may pass appropriate order.

**[23]** Mr. N. Mahendra, learned counsel for the respondent No. 3, submits that the writ petition is not maintainable in the present form, as Chairman cannot represent the Society in terms of Article 26 of the regulations of Kumbi College, which provides that only the Secretary of the Governing Body is competent to file the case on behalf or against the Society. It is stated that the writ petition is also not maintainable in the present form, as the petitioner has made false and misleading statement in its writ petition. It is stated in the writ petition that the meeting held on 30.01.2025 could not be held due to lack of quorum and opposition by other members. However, in



fact, the meeting was presided by the petitioner himself and he refused to sign the resolution. As there was a duly held meeting on 30.01.2025, mere non-appending of signature of the Chairman of the meeting due to his malafide intention, would not affect the authenticity of the resolutions taken in the meeting, especially resolution No. 3 proposing to appoint the respondent No. 4 as the Principal for a period of 6 (six) months in supersession of his superannuation. It is stated that the writ petition is not maintainable, as the petitioner is not affected personally by the impugned order dated 03.02.2025.

**[24]** Learned counsel for the respondent No. 3 draws the attention of this Court that the Manipur Societies Registration Act, 1989 is a general law and the regulations of the Kumbi College Society will be a special act. Hence, the provision of Article 26 of the regulations of the Kumbi College will overwrite the general provision of Sections 19 & 32 of the Manipur Societies Registration Act, 1989 and hence, the Secretary is the only competent person to file the case on behalf of the Society. He refers to the decision of the Hon'ble Supreme Court reported as **(2014) 3 SCR 1** with regard to the special law overrules the general provisions and decision of the Hon'ble Supreme Court in the case of **P. Nazeer v. Salafi Trust** : <http://indiankanoon.org/doc/9096227> to emphasise that only authorised person can sign and verify the pleadings. Learned counsel for the respondent No. 3 refers to the decision in the case of **Auroville Foundation vs. Natasha Storey: 2025 INSC 348** holding that persons approaching court with unclean hands and suppressed facts can be shunted at the very threshold without hearing on merit. Learned counsel for the respondent No. 3 also refers to the decision reported as **(2013) 2 SCC 398** that suppression of material facts will lead to the dismissal of the petition at the threshold without deciding on merit of the case. Learned counsel for the respondent No. 3 also refers to a decision of this Court in the order dated 20.12.2024 in WP(C) No. 686 of 2022 where writ petition at the instance of a person who is not affected by the impugned order, cannot approach the Court under a Writ of Certiorari under Article 226 of the Constitution of India.

**[25]** This Court has considered the materials on record, the submissions made by the parties and case law cited at the bar.

**[26]** On careful consideration, the following points of determination are involved in the present case:

- (i) Whether the present writ petition is not maintainable as the petitioner, who is the Chairman of the Governing Body of Kumbi College Society, does not have any locus in view of Article 26 of the Constitution of the Society as alleged by the respondent No.3?
- (ii) Whether the appointment of the respondent No. 4 as Principal of Kumbi College is in violation of the mandatory provisions of the Manipur Education Code, 1982?

**[27]** It will be fruitful if the relevant provisions of the law are discussed before going into the merit of the case.

1. Sections 19 & 32 of the Manipur Societies Registration Act, 1989 are reproduced as under:

*“19. Suits and Proceedings by and against a society:-*

- (1) Every society may sue or may be sued in the name of the President, the Secretary, or any office-bearer authorised by the Registrar in this behalf.
- (2) *No Suit or proceeding, shall abate by reason of any vacancy or change in the holder of the office of the President, the Secretary or any office-bearer.*
- (3) *Every decree or order against a society in any, suit or proceeding shall be executable against the property of the society and not against the person or the property of the President, the Secretary or any office-bearer.*
- (4) *Nothing in sub-section (3) shall exempt the President, the Secretary or office bearer of a society from any criminal liability under this Act or entitle him to claim any contribution from the property of the society in respect of any fine paid by him on conviction by a Criminal Court.*

*“32. Repeal and savings:-*

- (1) *The Societies Registration Act, 1860 (XXI of 1860) in its application to the State of Manipur, is hereby repealed.*
- (2) *Any Society registered in any place within the State of Manipur, under the Societies Registration Act, 1860,*

*shall be deemed to have registered under this Act, and its principal office shall be deemed to be the registered office of the society.*

*Provided that –*

- (a) the memorandum of association and the regulations of any such society shall, if they are repugnant to any of the provisions of this Act and the rules, be brought in conformity wherewith within the six months from the commencement of this Act or within such further period as the Registrar may allow, and thereafter shall, to the extent of such repugnancy, be deemed to be void and of not effect;*
- (b) Any office-bearer elected or appointed to an office before the commencement of this Act and holding such office immediately before such commencement shall continue to hold such office until the expiry of his term of office is lawfully terminated;*
- (c) Nothing in this section shall affect –*
  - (i) any right privilege obligation or liability acquired, accrued, or incurred under the societies Registration Act, 1860 (XXI of 1860).*
  - (ii) Any investigation, legal proceeding or remedy in respect of any such right, privilege; obligation, liability; as aforesaid;*
  - (iii) Any proceedings, in dissolution commenced before the coming into force of this Act.”*

**2. Chapter-XIII of Misc.: Article 26 of the Constitution of Governing Body of Kumbi College are reproduced as:**

*“Article 26: All suits by or against the college should be in the name of the Secretary and the Governing Body also will have power to appoint a person for the purpose for any special particular occasions.”*

**3. Rule 4 of the Manipur Aided College Employees (Service) Rules, 1974 which provides the method of recruitment for the post of Principal of an Aided College is reproduced as:**

**“4. Method of Recruitment:-**

**(A) Principals:-**

- (i) The appointment of the Principal of an Aided College shall be made by direct recruitment. The post should be advertised in time at least two news papers and Sate Gazette for a reasonable period of time. The particulars of the candidates in respect of educational qualifications and other experiences*

- will be scrutinized carefully by the Selection Committee before interview.
- (ii) The Selection Committee for appointment of the Principal shall consist of the following officials:-
- (a) One member of the Manipur Public Service Commission: Chairman
  - (b) Director of Education: Secretary
  - (c) Director of University Centre, Imphal and
  - (d) Another Senior member of the teaching Staff of that centre (to be nominated by Him) to represent the faculties of Arts and Science: Member
  - (e) One Principal nominated by the Government: Member
  - (f) One Educationist nominated By the Government: Member
  - (g) President/Chairman of the Governing Body of the College concerned: Member
- (iii) The headquarters of the Selection Committee shall be at such place as may be decided by the Chairman of the Selection Committee from time to time.
- (iv) The Selection Committee after scrutiny of the particulars and after interview shall prepare a list of candidates in order of preference and shall forward the list so prepared to the Governing Body, concerned with recommendation for appointment.
- (v) The Governing Body shall make appointment after necessary verification of character, antecedents and fitness after obtaining the prior approval of the Director of Education.
- (vi) The list of candidates shall ordinarily remain valid for one year from the date of selection.”

4. Chapter-XI Section I Rule 5 of the Manipur Education Code, 1982 is reproduced as:

“5. Filling up of temporary vacancies and appointment of substitute.

Except where it is otherwise provided in these rules, the Governing Body shall have power to fill up any temporary vacancy and appoint substitutes on ad-hoc basis without advertisement which may not extend beyond 3 (three) months subject to the approval of the Director of Education, Manipur. The Principal/Secretary will immediately thereafter advertise the post for recruitment through normal procedure prescribed in these rules before the expiry of the period of three months.”

**[28]** From the record, it is seen that the Kumbi College was registered in the year 1985 under the Societies Registration Act, 1860 and the Constitution of the Governing Body of the Kumbi College was published on 21.08.1884. Chapter XIII misc.: article 26 provides that all suits by or against the College should be in the name of the Secretary and the Governing Body also have power to appoint a person for the purpose of any special particular occasion.

**[29]** It is the submission of Mr. N. Mahendra, learned counsel for the respondent No. 3 that Article 26 of the Constitution of the society empowers only the Secretary to file a suit or proceeding on behalf or against the college and the Governing Body has power to appoint any other person for the said purpose also. It is his submissions that the petitioner herein, being a Chairman of the Governing Body, has no locus in terms of Article 26 of the Constitution of the Society to file a suit or petition on behalf of the College in so far as there is no specific authorization by the Governing Body to him.

**[30]** However, with the enactment of the Manipur Societies Registration Act, 1989, the application of Societies Registration Act, 1860 has been repealed in its application to the State of Manipur and Section 32 of the repealing and savings clause of 1989 Act provides that any society registered under 1860 Act shall be deemed to be registered under this Act of 1989. However, the proviso (a) to Sub-section 2 of Section 32 of 1989 Act stipulates that the memorandum of association and regulations of any society shall, if they are repugnant to any provisions of this Act and the rules, be brought in conformity therewith within the period of 6 (six) months from the commencement of this Act of 1989, failing which such repugnant provisions shall be deemed to be void and of no effect. Section 19 of the new Act of 1989 empowers President, Secretary and any office-bearer authorized by the Registrar to file suit on behalf of the society or defend any proceeding on behalf of the society.

**[31]** It is clear that Article 26 of the regulations of the society is repugnant to the mandatory provisions of Section 19 of 1989 Act to the extent

that it excludes President and any office-bearer of the society enabling to file a suit on behalf or against the society.

**[32]** This Court finds substance in the submission of Mr. N. Kumarjit, learned senior counsel for the petitioner that Article 26 of the Kumbi College Society will be deemed to be read as empowering President, Secretary and office-bearer authorized by the State, as the person competent to file a suit on behalf of the society. This Court does not find any force in the submission of Mr. N. Mahendra, learned counsel for the respondent No. 3, that Article 26 of the Society being a special law shall overwrite the provisions of Section 19 of the Manipur Societies Registration Act which is to be treated as a general law.

**[33]** This Court is of the opinion that the submission, even though seems to be attractive on the face of it, is without any basis. The overruling effect of the special law over general law is that both the general law and special law should have the same status, such as Indian Penal Code may be considered as a general law whereas POCSO Act 2012 may be considered as a special law. In case of any inconsistency between the general law of IPC and the special law of POCSO Act, the provisions of special enactment of POCSO Act will overrule the provisions of the general statute of IPC.

**[34]** However, Article 26 of the regulations of the society is a bye-law and it is a settled proposition of law that rules, bye-laws and sub-rules cannot overwrite the mandatory provisions of the main statute and they can be employed to interpret the grey area of the main statute and the same cannot be done in the derogation of any provisions of the statute.

**[35]** It may be relevant to refer to the decision of the Hon'ble Supreme Court in the case of **Co-operative Central Bank Ltd. and Ors. Vs. Additional Industrial Tribunal and Ors.** reported as **MANU/SC/0611/1969** wherein it was held that the bye-laws either contemplated by the Act can be merely those which govern the internal management, business or administration of a society. They can be binding between the persons affected by them, but they do not have the force of a statute. The bye-laws framed by a society under the Act are similar in nature to the Articles of Association of a Company incorporated under the Companies Act and such Articles of



Association have never been held to have the force of law. The relevant para is reproduced as:

*“.....10. We are unable to accept the submission that the bye-laws of a co-operative society framed in pursuance of the provisions of the Act can be held to be law or to have the force of law. **It has no doubt been held that, if a statute gives power to a Government or other authority to make rules, the rules so framed have the force of statute and are to be deemed to be incorporated as a part of the statute. That principle, however, does not apply to bye-laws of the nature that a co-operative society is empowered by the Act to make. The bye-laws that are contemplated by the Act can be merely those which govern the internal management, business or administration of a society. They may be binding between the persons affected by them, but they do not have the force of a statute.** In respect of bye-laws laying down conditions of service of the employees of a society, the bye-laws would be binding between the society and the employees just in the same manner as conditions of service laid down by contract between the parties. In fact, after such bye-laws laying down the conditions of service are made and any person enters the employment of a society, those conditions of service will have to be treated as conditions accepted by the employee when entering the service and will thus bind him like conditions of service specifically forming part of the contract of service. **The bye-laws that can be framed by a society under the Act are similar in nature to the Articles of Association of a Company incorporated under the Companies Act and such Articles of Association have never been held to have the force of law.** In a number of cases, conditions of service for industries are laid down by Standing Orders certified under the Industrial Employment (Standing Orders) Act, 1946, and it has been held that, though such Standing Orders are binding between the employers and the employees of the industry governed by those Standing Orders, they do not have such force of law as to be binding on Industrial Tribunals adjudicating an industrial dispute. The jurisdiction which is granted to Industrial Tribunals by the Industrial Disputes Act is not the jurisdiction of merely administering the existing laws and enforcing existing contracts. Industrial Tribunals have the right even to vary contracts of service between the employer and the employees which jurisdiction can never be exercised by a civil court or a*



*Registrar acting under the Co-operative Societies Act, so that the circumstance that, in granting relief on issue No. 1, the Tribunal will have to vary the special bye-laws framed by the Co-operative Bank does not lead to the inference that the Tribunal would be incompetent to grant the reliefs sought in this reference. In fact, the reliefs could only be granted by the Industrial Tribunal and could not fall within the scope of the powers of the Registrar dealing with a dispute under Section 61 of the Act.”*

[36] Reference can be made to the decision of **Shewaram and Sons v. Indore Municipal Corporation: MANU/MP/0210/1962** where it was held that bye-law and rule are consistent with the provisions of the Act. It is elementary that a bye-law or a rule framed under an Act cannot override the express provisions of the Act. It must be consistent with and subordinate to those provisions of the main statute. The relevant para is reproduced as:

*“.....6. It is clear from Section 133 that for the imposition of any tax mentioned in Section 132 it is essential that a resolution contemplated by Sub-section (1) should be passed by the Corporation and that it must be published and notified in the manner prescribed in Section 133. The resolution for the imposition of a tax must settle "the class of persons or description of property" to be taxed, the amount or rate of the proposed tax, and the system of assessment to be adopted. In the imposition of a tax the goods or persons to be subjected to the tax, the principle of assessment and the rate at which they are to be assessed are matters of principle and not of detail which can be regulated by rules or byelaws. The system of assessment of a tax is as much an integral part in the imposition of the tax as the persons or goods subjected to the tax or the rate of the tax. The taxing power of the Corporation is to be found in Section 132 and the exercise of it is regulated by Section 133. Section 427 only gives to the corporation the power to make byelaws and rules consistent with the provisions of the Act "for carrying out the provisions and intentions" of the Act. **It is elementary that a byelaw or a rule framed under an Act cannot override the express provisions of the Act. It must be consistent with and subordinate to those provisions.**”*

[37] With regard to relationship between the special and the general laws, reference may be made to the decisions reported as- (i) **AIR 1961 SC 751**, (ii) **(2006) 12 SCC 583**, (iii) **(2007) 7 SCC 309** and (iv) **AIR 1950 SC 134**. In view of the above settled proposition of law that rules and bye-law cannot

negate the express provisions of the Act and as such, Article 26 of the Constitution of the Kumbi College Society which authorized only the Secretary as the competent person to file suit and other proceeding cannot undo the wider scope given by the provisions of Section 19 of the Act of 1989, which empowers the President, Secretary or any office-bearer as authorized by the Registrar as the person competent to file suit on behalf of the society. The provisions of Article 26 of the regulations of the society cannot overwrite the wider scope given by Section 19 of the main statute i.e. Manipur State Societies Registration Act, 1989. Accordingly, the plea of the maintainability as raised by respondent No. 3 is rejected and it is held that the Chairman (which is equivalent to President of the Society) is a competent person to file the present writ petition. Accordingly, the preliminary objection is dismissed and decided in favour of the petitioner. It is also held that the Governing Body has a right to protect the interest of the Society to rectify and challenge any wrong act done by one of its members, even if the Governing Body is not personally aggrieved by such order. The next question to be decided is whether the appointment of the respondent No. 4 as Principal of the Kumbi College by the respondent No. 3 is in compliance of the mandatory provisions of the Manipur Education Code.

**[38]** The Government of Manipur has notified 01.02.1982 as the date on which Manipur Education Code, 1982 came into force. The code is a compendium of various rules for the regulations of the education both in school, higher secondary, college and university level. It contains XI chapters and Chapter-XI Section I contains the Manipur Aided College Employee (Service) Rules, 1974 and the same came into force on 04.10.1974. Rule 4 prescribes the method of recruitment and sub-rule A provides that the appointment of Principal of Aided College shall be made by direct recruitment by a screening committee comprising of the Chairman and Members of the Manipur Public Service Commission, Director of Education, Director of University, Centre, Imphal and other members as prescribed in Rule 4A(ii). Rule 4(v) says the Governing Body shall make appointment after necessary verification of character, antecedents and fitness after obtaining the prior approval of the Director of Education and Rule 4(vii) provides that the

appointment of Principals already in service shall be regularised on the recommendation of the Selection Committee in accordance with Rule 6.

**[39]** Rule 6 prescribed the academic and other qualifications for a candidate eligible for Principal i.e. a second class Master's Degree with 10 years experience as a teacher in a Degree College or University or as an Education Administrator and in special cases of outstanding scholarship with administrative ability, the length of experience may be relaxed up to five years and the minimum age is 35 years. However, rule does not provide maximum age for appointment of a Principal.

**[40]** It may be pertinent to note that the retirement age of a Government College Principal is 62 years, even though, a Government College Teacher may continue in service up to the age of 65 only as a teaching faculty. In other words, a person who has crossed the age of 62 years is not qualified for appointment as Principal of a Government College.

**[41]** From the above provisions, it is clear that the Principal of the Government Aided College can be appointed by the Governing Body of the College on the recommendation of a suitable candidate by a Selection Committee constituted under Rule 4(A)(ii) and after obtaining prior approval of the Director of University and Higher Education, Government of Manipur under Rule 4(v). It may be also noted that Rule 5 provides for filling up of temporary vacancy and appointment of substitute for not more than 3 (three) months subject to the approval of the Director of Education without advertisement for a period not exceeding 3 (three) months subject to the approval of the Director of Education.

**[42]** In any case of appointment of a Principal of a Government Aided College (either on regular or temporary basis) by the Governing Body, it should be recommended by a Select Committee and duly approved by the Director of University and Higher Education, Government of Manipur. Additionally, a person who crossed the age of 62 years cannot be appointed as Principal of a Government College including Aided College. Within this legal prism, the Principal of a Government Aided College has to be appointed.

**[43]** In the present case, the Governing Body of the College vide its meeting held on 21.01.2025 resolved to shortlist the following faculty of the college as panel for selection of the next principal of the college: (1) S. Rajen Singh HOD Physics, (2) Kh. Rameshwar Singh HOD Physics, (3) Kh. Chanu Surbala HOD Education and (4) Y. Devananda Singh HOD Mathematics and the Screening Committee with the following members: (1) Ch. Modhumangol Singh (Principal), (2) Ch. Brojendro Singh HOD History and (3) N. Brajamuhon T/R was also constituted.

**[44]** In its meeting held on 27.01.2025, the Governing Body resolved that candidates qualifying the minimum criteria to apply by 28.01.2025 at 1:00 pm and on 29.01.2025, the meeting of the Screening Committee would be fixed on 29.01.2025 for selection of the Principal and emergency general body meeting of the college to be held on 31.01.2025 at 1:00 pm to nominate a new Principal from the report of the Screening Committee.

**[45]** The respondent No. 3 issued a notice dated 28.01.2025 for emergency general body meeting fixed on 30.01.2025 at 1:00 pm for the appointment of the Principal. From the proceedings of the emergency general body meeting held on 30.01.2025, it is seen that even though the petitioner chaired the proceeding as a Chairman, he did not sign the proceeding nor did any other person sign on his behalf. In the meeting dated 30.01.2025, resolution 3 resolved to appoint the respondent No. 4 i.e. Shri L. Gopal Singh HOD Political Science to the post of Principal for a period of 6 (six) months by suspending his superannuation with effect from 07.02.2025. Accordingly, the respondent No. 3 issued the impugned order dated 03.02.2025 appointing respondent No. 4 as Principal of Kumbi College for a period of 6 (six) months by suspending his superannuation with effect from 06.02.2025 in pursuance of the resolution No. 3 of the Governing Body meeting purportedly held on 30.01.2025.

**[46]** Mr. N. Kumarjit, learned senior counsel for the petitioner, attacks the impugned order dated 03.02.2025 appointing the respondent No. 4 as Principal for a period of 6 (six) months on the ground that:

- (i) The name of respondent No. 4 was not recommended by the Selection Committee as stipulated in Rule 4A(ii) of the Manipur Aided College Employee (Service) Rules, 1974 and also the recommendation of the unauthorized Screening Selection Committee was also not approved till date by the Director of University and Higher Education, Government in terms of Rule 4(v) of the Rules of 1974. It is pointed out the Selection Committee was not constituted as per Rule 4A(ii) of Rule of 1974.
- (ii) It is also stated assuming that the appointment of respondent No. 4 is for temporary vacancy in terms of Rule 5 as projected by respondent No. 3, the same cannot be sustained as maximum period of 3 (three) months is prescribed for filling up temporary vacancy and also the same should be with the prior approval of the Director.

**[47]** It is an admitted fact in the present case that there is no approval of the Director of Education for the appointment of the respondent No. 4 as Principal of the Kumbi College, both as a regular or as a temporary incumbent. On the other hand, the respondent No.4 whose date of birth is 07.02.1960, is to retire on 06.02.2025 on attaining the age of 65 years and in any case, he cannot be considered for appointment as a Principal of a Government College, as no person is eligible for appointment as Principal beyond the age of 62 years.

**[48]** This Court is of the considered view that the appointment of the respondent No. 4 as Principal of Kumbi College by the respondent No. 3 vide order dated 03.02.2025 purportedly in terms of resolution No. 3 of the emergency meeting of the Governing Body held on 30.01.2025 cannot be sustained for the following reasons:

- (i) The Selection Committee which recommended the respondent No. 4 was not by the Committee as stipulated by Section 4A(ii) of the Manipur Aided College Employees (Service) Rules, 1974 and mandatory prior approval of the

Director of Education as contemplated under Sub-rule (v) of Rule 4 has not been granted till date. Respondent No.4 was not in the list of shortlisted candidates.

- (ii) Even for the appointment of temporary vacancy under Rule 5 as projected by the respondent No. 3, the same is also in violation of the provisions of Rule 5, as maximum term is for 3 (three) years and that too, with the prior approval of the Director of Education, Manipur.

**[49]** Accordingly, the impugned order dated 03.02.2025 issued by respondent No. 3 appointing respondent No. 4 as Principal of Kumbi College is set aside with a direction to the Governing Body to initiate appointment of Principal on regular basis in terms of the mandatory provisions of the rules of 1974 as discussed above. Till then, eligible seniormost faculty member of the college may be appointed as in-charge Principal after following the relevant rules. In order to avoid any difficulty in the functioning of the college and applying '*the principles of prospective overruling*', the normal administrative and academic decisions already taken by the respondent No.4 are deemed to be done by a duly appointed Principal, except the notification dated 03.07.2025.

**[50]** It may be noted that vide order dated 08.07.2025 in MC(WP(C) No. 478 of 2025, this Court stayed the notification dated 03.07.2025 issued by the respondent No. 4 as Principal for recruitment of teaching and non-teaching staff, as his very appointment is being challenged before this Court. It is clarified that the appointment of teaching and non-teaching staff may be initiated by a duly appointed Principal either on in-charge or on regular basis.

**[51]** Writ petition is allowed. No cost. Misc. applications are disposed of with the above observations. Interim order stands merged with the final order.

**JUDGE**

FR/NFR

Kh. Joshua Maring

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WP(C) No. 112 of 2025 with MC(WP(C) No. 111 of 2025 with  
MC(WP(C) No. 174 of 2025 with MC(WP(C) No. 478 of 2025