



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.10798 OF 2025

Kedarnath S/o Rameshwar Bodkhe,
Age-32 years, Occu:Service as
Assistant Teacher,
R/o-Vihamandwa, Taluka-Paithan,
District-Chhatrapati Sambhajinagar

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai,
- 2) The Education Officer (Primary),
Zilla Parishad, Chhatrapati Sambhajinagar,
- 3) The Secretary,
Manav Vikas Krida, Sanskrutil, Shikshan
Prasarak Mandal, Vihamandwa,
Taluka-Paithan, District-Chhatrapati
Sambhajinagar,
- 4) The Head Master,
Rashtramata Jijau Primary School,
Vihamandwa, Taluka-Paithan,
District-Chhatrapati Sambhajinagar

...RESPONDENTS

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Mr. Imran Khan Guftar Khan Durrani Advocate for Petitioner.
Mr. S.B. Narwade, A.G.P. for Respondent No.1.
Mr. V.C. Patil Advocate h/f. Mr. U.B. Bondar Advocate for
Respondent No.2.

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**CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.**

DATE : 10th DECEMBER, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Petition has been filed to challenge the order dated 14th May 2025, issued by respondent No.2 – the Education Officer (Primary), Zilla Parishad, Chhatrapati Sambhajinagar. Consequential prayer has also been made. Learned AGP waives notice for respondent No.1 and learned Advocate Mr. Patil holding for learned Advocate Mr. Bondar waives notice for respondent No.2. No necessity to issue notice to respondent Nos.3 and 4, at this stage.

2. The petitioner states that he is qualified as H.S.C., D.Ed., and was eligible to be appointed on the post of assistant teacher for 1st to 7th standard. He came to be so appointed after following due procedure by respondent No.3 on 14th January 2013, initially for the period of two years on probation and thereafter on the post of assistant teacher in respondent No.4 school. The management had confirmed his services with effect from 14th January 2015. The management then forwarded proposal to respondent No.2 for grant of approval to his appointment and

regularization of service after completion of the probation. Accordingly, the approval was granted by order dated 30th March 2017. The initial appointment of the petitioner was on non-grant basis. Respondent No.4 was having eight partially aided teaching posts whereas two posts were on non-aided basis. After one assistant teacher by name Shriram Balkrushna Bachate resigned from the post of assistant teacher due to his health issues and after his resignation was accepted on 2nd June 2018, the management decided to promote the petitioner on the said partially aided post which had fallen vacant upon resignation of Shri Bachate. The petitioner was also senior-most teacher to be promoted from non-aided to partially aided post. The management then forwarded proposal to respondent No.2 for grant of approval to the transfer of the petitioner from non-aided to partially aided post. However, by the impugned order, the said proposal came to be rejected only on the ground that absorption of surplus teachers, declared for the academic year 2023-24 in the District, has not been completed.

3. Learned Advocate for the petitioner relies on the decision in **Laxman s/o Dnyaneshwar Aware vs. the State of Maharashtra and others**, (Writ Petition No.7898 of 2025, decided on 10th July

2025) , wherein reliance was placed on the decision in **Shetkari Shikshan Prasarak Mandal vs. State of Maharashtra and others**, (Writ Petition No.5628 of 2025, decided on 29th April 2025), wherein this Court referred to Rules 41 and 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

4. Learned Advocate for respondent No.2 submits that the legal position is accepted and respondent No.2 would consider the proposal in the light of the decision in **Laxman s/o Dnyaneshwar Aware vs. the State of Maharashtra and others**, (supra).

5. In view of the said fact we are allowing the Writ Petition. The impugned order dated 14th May 2025, passed by respondent No.2 stands quashed and set aside. Respondent No.2 is directed to consider the proposal of the petitioner without referring to Circular dated 1st December 2022, the Government Resolution dated 29th April 2024 and Circular dated 3rd October 2024; on its own merits, as expeditiously as possible and in any case within SIX WEEKS from today.

6. We also caution respondent No.2 that she should avoid passing such orders or taking such decisions which will force the persons to approach this Court. When a proposal is submitted, then it should be decided on its own merits and not otherwise.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/DEC25