

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

(1) WRIT PETITION NO.16775 OF 2023

Pravin Dileep Dhale and Ors.Petitioners

Versus

The State of Maharashtra and Ors.Respondents

**WITH
INTERIM APPLICATION (ST) NO.34058 OF 2024
IN**

WRIT PETITION NO.16775 OF 2023

**WITH
WRIT PETITION (ST) NO.3654 OF 2024**

**WITH
WRIT PETITION NO.3360 OF 2024**

**WITH
WRIT PETITION NO.3356 OF 2024**

**WITH
WRIT PETITION NO.3355 OF 2024**

**WITH
WRIT PETITION NO.5304 OF 2024**

**WITH
WRIT PETITION NO.5305 OF 2024**

**WITH
WRIT PETITION NO.3366 OF 2024**

**WITH
WRIT PETITION NO.12654 OF 2024**

**WITH
WRIT PETITION NO.9752 OF 2024**

**WITH
WRIT PETITION NO.9772 OF 2022**

**WITH
WRIT PETITION NO.9770 OF 2022**

**WITH
WRIT PETITION NO.9781 OF 2022**

**WITH
WRIT PETITION NO.9776 OF 2022**

**WITH
WRIT PETITION NO.12800 OF 2022**

WITH
WRIT PETITION NO.9778 OF 2022
WITH
WRIT PETITION NO.12653 OF 2024
WITH
WRIT PETITION NO.12656 OF 2024
WITH
WRIT PETITION NO.12638 OF 2024
WITH
WRIT PETITION NO.12655 OF 2024
WITH
WRIT PETITION NO.1522 OF 2024
WITH
WRIT PETITION (ST) NO.19189 OF 2024
WITH
WRIT PETITION NO.12413 OF 2022
WITH
WRIT PETITION NO.10727 OF 2023
WITH
WRIT PETITION NO.11997 OF 2024
WITH
WRIT PETITION NO.1836 OF 2024
WITH
INTERIM APPLICATION NO.1516 OF 2024
IN
WRIT PETITION NO.1836 OF 2024
WITH
INTERIM APPLICATION NO.11185 OF 2024
WITH
WRIT PETITION NO.10798 OF 2024
WITH
INTERIM APPLICATION NO.11187 OF 2024
WITH
INTERIM APPLICATION NO.11188 OF 2024
WITH
WRIT PETITION NO.10800 OF 2024
WITH
WRIT PETITION NO.10799 OF 2024
WITH
WRIT PETITION NO.10802 OF 2024

WITH
WRIT PETITION NO.10801 OF 2024
WITH
INTERIM APPLICATION NO.11195 OF 2024
WITH
INTERIM APPLICATION NO.11199 OF 2024
WITH
INTERIM APPLICATION NO.11200 OF 2024
WITH
INTERIM APPLICATION NO.11202 OF 2024
WITH
WRIT PETITION NO.12190 OF 2023
WITH
WRIT PETITION NO.12191 OF 2023
WITH
WRIT PETITION NO.12188 OF 2023
WITH
WRIT PETITION NO.12189 OF 2023
WITH
WRIT PETITION NO.1837 OF 2024
WITH
INTERIM APPLICATION NO.1515 OF 2024
IN
WRIT PETITION NO.1837 OF 2024
WITH
WRIT PETITION NO.11636 OF 2024
WITH
WRIT PETITION NO.11649 OF 2024
WITH
WRIT PETITION NO.1838 OF 2024
WITH
INTERIM APPLICATION NO.1514 OF 2024
IN
WRIT PETITION NO.1838 OF 2024
WITH
WRIT PETITION NO.5011 OF 2024
WITH
WRIT PETITION NO.18366 OF 2024
WITH
WRIT PETITION NO.15887 OF 2024

WITH
WRIT PETITION NO.1839 OF 2024
WITH
INTERIM APPLICATION NO.1513 OF 2024
IN
WRIT PETITION NO.1839 OF 2024
WITH
WRIT PETITION NO.16721 OF 2024
WITH
WRIT PETITION NO.17779 OF 2024
WITH
WRIT PETITION NO.2133 OF 2024
WITH
WRIT PETITION NO.2132 OF 2024
WITH
WRIT PETITION NO.2112 OF 2024
WITH
WRIT PETITION NO.18203 OF 2024
WITH
WRIT PETITION NO.2142 OF 2024
WITH
WRIT PETITION NO.2138 OF 2024
WITH
WRIT PETITION NO.1844 OF 2024
WITH
INTERIM APPLICATION NO.1511 OF 2024
IN
WRIT PETITION NO.1844 OF 2024
WITH
WRIT PETITION NO.2140 OF 2024
WITH
WRIT PETITION NO.2141 OF 2024
WITH
WRIT PETITION NO.2143 OF 2024
WITH
WRIT PETITION NO.17780 OF 2024
WITH
WRIT PETITION NO.16776 OF 2023
WITH
INTERIM APPLICATION (ST) NO.33914 OF 2024

IN
WRIT PETITION NO.16776 OF 2023
WITH
WRIT PETITION NO.16777 OF 2023
WITH
WRIT PETITION NO.16780 OF 2023
WITH
WRIT PETITION NO.18611 OF 2024
WITH
WRIT PETITION NO.18862 OF 2024
WITH
WRIT PETITION (ST) NO.36879 OF 2024
WITH
(4) WRIT PETITION NO.15830 OF 2024
WITH
(5) WRIT PETITION NO.16363 OF 2024
WITH
(7) WRIT PETITION NO.17722 OF 2024
WITH
(9) WRIT PETITION NO.2190 OF 2025
WITH
WRIT PETITION NO.2199 OF 2025
WITH
(10) WRIT PETITION NO.4719 OF 2025
WITH
(11) WRIT PETITION NO.5243 OF 2025
WITH
(12) WRIT PETITION NO.5247 OF 2025
WITH
(13) WRIT PETITION NO.5252 OF 2025
WITH
(14) WRIT PETITION NO.5255 OF 2025
WITH
(15) WRIT PETITION NO.5280 OF 2025
WITH
(505) WRIT PETITION (ST) NO.1282 OF 2022
WITH
WRIT PETITION (ST) NO.90 OF 2022
WITH
WRIT PETITION (ST) NO.1284 OF 2022

WITH
WRIT PETITION (ST) NO.1290 OF 2022
WITH
WRIT PETITION NO.4839 OF 2022
WITH
WRIT PETITION (ST) NO.1313 OF 2022
WITH
WRIT PETITION NO.4837 OF 2022
WITH
WRIT PETITION (ST) NO.1352 OF 2022
WITH
WRIT PETITION (ST) NO.1357 OF 2022
WITH
(506) WRIT PETITION NO.16501 OF 2023
WITH
(507) WRIT PETITION NO.7102 OF 2024
WITH
(508) WRIT PETITION (ST) NO.13935 OF 2025

Mr. N.V. Badiwadekar, Senior Advocate a/w. Mr. Vinayak Kumbhar, Mr.Rajendra Khaire, Mr.Aniket Phapale i/b. Ms.Ashwini Bandiwadekar, Advocate for the Petitioners in Writ Petition Nos.12190 of 2023, 12188 of 2023, 12189 of 2023, 12191 of 2023.

Mr. C. G. Gavnekar with Mr. Ashutosh Gavnekar i/b. Mr. Rohit Parab for the Intervenor in IA Nos.34058 of 2024 and 33914 of 2024.

Mr. Sharad T. Bhosale i/b. Mr. Dilip Bodake, Advocate for Petitioners in Writ Petition Nos.5305 of 2024, 5304 of 2024, 9772 of 2022, 9781 of 2022, 9776 of 2022, 12800 of 2022, 9778 of 2022, 1522 of 2024 and 12413 of 2022.

Mr. Sharad T. Bhosale for the Petitioners in WP Nos.2190 of 2025 and 2199 of 2025.

Mr. Mihir Desai, Senior Advocate a/w. Mr. Pradeep Yadav i/b. Mr. Saumitra Salunke, Advocate for the Petitioners in Writ Petition No.11997 of 2024.

Mr. Vishal Kanade a/w. Mr. Saumitra Salunke and Ms. Swapnali Chavan i/b Mr. Pradeep Yadav, Advocate for the Petitioners in Writ Petition No.12656 of 2024.

Mr. Pradeep Yadav, Advocate for the Petitioners in Writ Petition Nos.3360 of 2024, 3355 of 2024, 3366 of 2024, 12654 of 2024, 17779 of 2024, 2112 of 2024, 2142 of 2024, 18203 of 2024, 2138 of 2024, 2140 of 2024, 2141 of 2024, 2143 of 2024, 17780 of 2024, 4719 of 2025 and 5243 of 2025.

Mr. Saumitra Salunke, Advocate for the Petitioners in Writ Petition No.12638 of 2024.

Ms. Swapnali Chavan, Advocate for the Petitioners in Writ Petition Nos.12653 of 2024, 12655 of 2024, 2133 of 2024, 2132 of 2024.

Mr. Sarthak Diwan i/b. Mr. Ashutosh Kulkarni, Advocate for the Petitioners in Writ Petition No.10727 of 2023.

Mr. Abhishek Deshmukh, Advocate for the Petitioners in Writ Petition No.15887 of 2024.

Dr. Birendra Saraf, learned Advocate General a/w. Mr. B.V. Samant, Addl. G.P. , Ms. P.M. Joshi Deshpande, AGP, Mr. V.M. Mali, AGP and Mr. V.G. Badgujar, AGP for Respondent-State.

Mr. Ashutosh Kumbhakoni, Senior Advocate i/b. Mr. Akshay Shinde, Advocate for Respondent No.4 in WP No.16775 of 2023.

Mr. Kaustubh Gidh, Advocate for the Respondents in Writ Petition No.10727 of 2023.

Mr. Sachin Kadam, Advocate for the Respondent No.4 in Writ Petition No.15887 of 2024.

Mr. Rajaram Deshmukh for the Petitioners in WP (St) No.36879 of 2024 and WP No.5247 of 2025.

Mr. Mahesh Deshmukh i/b. Mr. Rahul Temak for the Petitioners in WP Nos.15830 of 2024, 16363 of 2024, 17722 of 2024, 5252 of

2025, 5255 of 2025, 5280 of 2025, 18862 of 2024 and 16777 of 2023.

Mr. Narayan G. Rokade a/w. Mr. Abhay Suryawanshi i/b. Mr. Vijay Jagtap for the Petitioners in WP Nos.11636 of 2024, 11649 of 2024 and 16780 of 2023.

Ms. P.N. Diwan, AGP for the Respondent -State in WP No.2190 of 2025.

Mr. B.V .Samant, Addl. GP a/w. Mr. Abhishek Bhadang, AGP for the Respondent-State in WP Nos.15830 of 2024 and 16363 of 2024.

Mr. Abhishek Bhadang, AGP for the Respondent - State in WP Nos.5252 of 2025 and 5280 of 2025.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 21st APRIL, 2025

P.C. :-

1. The following Writ Petitions were not on board. By consent of the parties, taken on production board :

*WRIT PETITION (ST) NO.1282 OF 2022
WITH
WRIT PETITION (ST) NO.90 OF 2022
WITH
WRIT PETITION (ST) NO.1284 OF 2022
WITH
WRIT PETITION (ST) NO.1290 OF 2022
WITH
WRIT PETITION NO.4839 OF 2022
WITH
WRIT PETITION (ST) NO.1313 OF 2022
WITH
WRIT PETITION NO.4837 OF 2022
WITH
WRIT PETITION (ST) NO.1352 OF 2022*

WITH
WRIT PETITION (ST) NO.1357 OF 2022
WITH
WRIT PETITION NO.16501 OF 2023
WITH
WRIT PETITION NO.7102 OF 2024
WITH
WRIT PETITION (ST) NO.13935 OF 2025

2. After a prolonged hearing in these matters and considering the submissions of the learned Advocate General of the State of Maharashtra Dr. Saraf, the learned Senior Advocates Mr. Kumbhakoni and Mr. Desai, and the learned Advocates for the appearing parties, we deem it appropriate to advert to the order dated 13th September, 2021 passed by this Court in Writ Petition No.3530 of 2018 (*Shri Naghotakar Ravindra Suresh v/s. State of Maharashtra and Ors.*) and connected matters. The short order comprising of four paragraphs, dated 13th September, 2021, reads as under :

1. The parties have tendered the consent terms dated 13th September, 2021 between the petitioners and the Management duly signed by the parties and their respective advocate. The signature of the parties are identified by their respective advocates. The consent terms are taken on record and marked "X" for identification.

2. Learned counsel for the Management states that the Management has approved the consent terms

and has authorized the Honorary Secretary viz. Dr. V.S. Shivankar to sign these consent terms on behalf of the Management. Some of the parties have not signed the consent terms who are not parties to the consent terms and have left the job and have joined the services in the same management or have expired and or are not interested in pursuing the matter. Statement is accepted. The undertakings contained in the consent terms are accepted. Since the State Government is not a party to these consent terms, we direct the State Government to grant approval to the appointment of the petitioners who are parties to the consent terms within six weeks from the date of receipt of respective proposals from the Management.

3. The above writ petitions are disposed of in terms of the consent terms.

4. Parties to act on the authenticated copy of this order.

3. In Writ Petition No.11590 of 2023 (*Anil Bharat Sarade and Anr. v/s. State of Maharashtra and Ors.*) and connected matters, this Court referred to the above reproduced order and directed the competent Authority of Respondent No.4, Education Society, to deal with the representations of the Petitioners and take a decision.

4. On 12th February, 2024, this Court, at the Aurangabad Bench, dealt with Civil Application No.1873 of 2024 in Writ

Petition No.180 of 2024 (*Gorakh Moreshwar Deokar and Ors. v/s. The State of Maharashtra and Ors.*) and connected matters, and passed an order, which reads as under :

1. In the Writ Petitions, we had initially issued notice on 19th October, 2023. The Parties were served. On 4th January, 2024, we granted the Education Society time to file it's reply till 17th January, 2024. Even on 17th January, the reply was not filed. So an order was passed that the affidavit in reply should be filed on or before 8th February, 2024. Even then, the Education Society has not filed the Reply.

2. Today, these Petitioners are before us thorough their Civil Applications with the grievance that the compromise terms arrived at in Writ Petition No.2549 of 2018 between the Petitioners and the Respondent Education Society before this Court at the Principal Seat, dated 13.09.2021, are not being complied with. Paragraph Nos.3 and 4 are read out to us, which are as under :

"3. After the Petitioners would be reinstated as mentioned hereinabove, the Respondent Management shall prepare a combined list of all the Petitioners, working on temporary and Clock Hour Basis. The said combined seniority list shall also include the names of other Teachers, who have not filed similar Writ Petitions in this Hon'ble Court against the Management, but who were in service under the Respondent Management till the Academic Year 2016-2017. The seniority of the Petitioners shall be on the basis of the date of their initial appointment under the Respondent Management. Such a seniority list shall be prepared by the Respondent

Management within a period of 6 weeks from today and thereafter the same shall be published on the website of the Management and it shall also be circulated amongst all the Petitioners for verification and confirmation, and the Petitioners shall sign the said combined seniority list in token of having accepted the same within a period of 15 days.

After the Petitioners would be reinstated as mentioned hereinabove, the Respondent No.3 shall prepare a combine seniority list from A.Y.1990 to A.Y. 2016-2017 of all the Petitioners as well as of those Teachers who have not filed the Writ Petitions, but who were actually in service in the A.Y. 2016-2017.

4. The Respondent - Management shall utilize / operate the aforesaid combined seniority list for the purposes of making appointments of the Petitioners and other Teachers on the permanent posts, as and when the permanent vacancy would become available in the Schools / Junior Colleges of the Respondent - Management. However the same shall be subject to the condition of concerned Teachers included in the said combined seniority list showing their readiness and willingness and giving Undertaking that they are ready to join any School / Junior College of the Respondent - Management where he shall be posted, and he shall not insist for a particular place or post, with further compliance with regard to the educational qualifications required for the said post, but being granted the age relaxation required for the said post."

3. The learned Advocate for the Respondent Education Society submits that the reply will be filed within three days. The learned Advocate for the Petitioners submits that today is the last date for locking the preference by those petitioners, whose names are set out in the common seniority list, which is prepared. We are informed that many of the Petitioners have applied and may be considered, but some of them have not. We grant liberty to those Petitioners or such employees who may have not applied/locked their preferences, to immediately make their applications through the Online process which is to end today. We permit those who have not applied, to lock their preferences, through the Online mode till 11.59 p.m. today.

4. Let the reply of the Education Society be filed on or before 16.02.2024.

5. List these Civil Applications in the urgent orders category on 21.02.2024. Until then, the appointments shall not be made.

By the Interim Application No.13779 of 2024, the Rayat Education Society seeks modification of the aforesaid order.

5. On 7th January, 2025, while hearing the Interim Applications and the Writ Petitions, this Court passed the following order :

INTERIM APPLICATION NO.13779 OF 2024
IN
WP NO.3845 OF 2024

1. On 4/07/2024, following order was passed :-

“ In these petitions, as pointed out by the learned Counsel for the parties, reply of the State would be necessary.

2. Considering the likely impact of the decision on the subject matter, the Secretary, School Education and Sports Department, State of Maharashtra will ensure that necessary instructions are given to the Office of the Government Pleader within a period of three weeks from today so that reply can be filed before the next date.

3. Stand over to 7 August 2024.

4. The learned Addl. GP states that copy of this order will be forwarded to the Secretary, School Education and Sports Department.”

2. We have entered in 2025, but till date unfortunately, the State Government has failed to comply with the aforesaid direction.

3. Schedule ‘F’ relating to the seniority list as contemplated under Rule 12 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, set out the guidelines for fixation of seniority of teachers in the Primary Schools/Secondary Schools/Junior Colleges etc and category ‘C’ of schedule ‘F’ underwent the substantial amendment by issuance of notification on 24/03/2023, by the School Education and Sports Department.

Category ‘C’ itself stood substituted by a new category and definitely this has impacted a large number of teachers working in Primary

Schools/Secondary Schools/Junior Colleges.

The crucial point for determination in order to assess how much it has impacted the teachers is firstly to ascertain whether the notification dated 24/03/2023, will have prospective operation but we are informed that the Director/Deputy Director of Education Department have already issued directions for revising the seniority list under category 'C' by applying the notification of 24/03/2023.

We specifically queried with Shri. Samant, the learned Additional Government Pleader, as to whether the notification is given a retrospective effect by clearly indicating so, and according to him prima facie no such indication is visible.

If it is not so, then the normal rule for interpretation of a statutes would come into picture. However, since we are aware that large number of teachers are awaiting the decision of the State Government on this point, whether it will have a retrospective effect and we have already directed the State Government to make its stand clear as early as in July, 2024, we expect the Principal Secretary, School Education and Sports Department to file his affidavit, restricting himself only to the point whether the notification issued on 24/03/2023, has a retrospective effect and if it is so, on what basis does it claim to be so.

We direct the affidavit to be filed on or before 24/01/2025, and pursuant thereto, we direct listing of the petition on 29/01/2025, at 2:30 p.m.

4. Since, learned counsel Mr. Desai, representing the petitioner has made it very clear that if this clarification comes from the State Government, the issue involved in the Writ Petition would be

much more simplified and according to us not only in this group of Petition but several other petitions this question is repeatedly raised, and we hope and trust that the Education Department shall offer the desired clarification at the earliest to save multiple proceedings being instituted in this Court.

Across the bar we are informed that several petitions filed before the Principal Seat as well as the benches, which involve the similar issue about the effect of the notification issued by the State Government. To be listed along with WP No. 11245 of 2023, WP No.3908 of 2024 and WP No.3845 of 2024.

WRIT PETITION NO.16776 OF 2023

5. In Writ Petition No.2549 of 2018, the Consent Terms were tendered in the Court on 13/09/2021, which recorded a consent on part of the respondent Management to reinstate the petitioners in the petitions, who were working as Assistant Teachers in the respondent Management on temporary basis/clock hour basis and/or, who were discontinued after filing the present Writ Petition.

A consensus was reached that the petitioner is reinstated in the respective post/schools and they shall continue on the same post.

The Consent Terms also record that the reinstatement of the petitioner shall be on the basis of the availability of subject-wise post and the seniority of the petitioner in that subject for the purpose of reinstatement only.

6. Paragraph no.3 of the Consent Terms recorded that the Management shall prepare a combined list

of all the petitioners, working on temporary and clock hour basis, and it shall include the name of the other teachers, who have not filed similar Writ Petitions before the Court, but who were in service of the respondent- Management till the academic year 2016-2017. This list was agreed to be prepared within period of 6 weeks and publish on the website of the Management and to be circulated for verification and confirmation.

The Consent Terms set out the mechanism by which the petitioners would be initially taken on no grant basis and approval shall be accorded to them by the Education Department of the State Government and subsequent thereto, they shall be transferred to the full time Assistant Teachers sanctioned on aided basis, strictly as per their seniority and subject to availability of the vacant posts of their respective subject.

The Consent Terms expected it to be a step wise procedure and the petitioners have agreed to give up their monetary claim, by filing an undertaking.

7. We have before us the petition filed by one Santosh Devare and 6 ors, who were not party to the Writ Petition No.2549 of 2018, but derive its benefit from the consensus recorded in the Consent Terms, urge that once they are placed in the seniority list that has been prepared by the Management the same modus operandi for their absorption first in the unaided and then in the aided section shall be made applicable to them.

A group of petitions are listed before us pursuant to an administrative order passed by the Hon'ble the Chief Justice and we had received the petitions from Aurangabad Bench, which are tagged and listed today.

8. On hearing the respective counsels for the petitioners, each petition depicting a different scenario and Mr. Kumbhakoni, Senior Advocate, appearing for the Management Rayat Education Society, as well as Mr. Samant, representing the State Government, we are of the view that the procedure need to be streamlined as now not only the petitioners, but those who have not filed the petition but are seeking extension of the benefit of the Consent Terms dated 13/09/2021, are before us and along with them we have the persons, who had been selected through Pavitra Portal, pursuant to 814 posts being advertised, who are awaiting their turn to be accommodated in the aided section of the various schools run by the Management.

We are prima facie of the view that, we should at the outset ensure compliance of the Consent Terms dated 13/09/2021, qua the petitioners along with the non-petitioners, as now the Management has prepared a common seniority list and they deserve an equal treatment despite the fact that they were not the petitioners earlier.

9. We have before us an affidavit filed by the Joint Secretary of Rayat Shikshan Sanstha, Satara, in terms of the order dated 27/08/2024, from where we can collate, that the respondent Management had total 1144 vacant seats available in aided and this included the post on Primary, Secondary and Higher Secondary schools. Out of these posts 814 were advertised on Pavitra Portal, covering the three divisions.

On the other hand, the seniority list which was drawn in terms of the Consent Terms is prepared of 1626 persons, which included 268 petitioners and 1358 non-petitioners.

As per the Consent Terms, the seniority list is to be operated in a manner that the persons named in the seniority list shall be first accommodated in the unaided division and thereafter in the aided division.

The affidavit contain a specific statement in paragraph no.13, that the Management has forwarded the proposals for appointment of 610 candidates in the unaided division and this include 250 proposals of the petitioners and 360 of those, who were not the petitioners.

Out of this 610 proposals 269 are approved by the Education Department and this include 246 petitioners and 23 non-petitioners.

10. Looking at the aforesaid statistics prepared in the affidavit, we were surprised to see as far as non-petitioner category is concerned out of 360, the Education Department had only considered 23, teachers fit for approval and these candidates are further circulated for their consideration in the aided division.

At this stage itself, we would like to have the response of the State Government as to why the proportion of rejection of the proposal of the non-petitioners is comparatively higher as against the petitioners as 246 persons out of 250 have received approval from the Education Department on unaided posts. Out of these 246, which received approval, 238 were proposed for transfer to the aided division, out of which 221 proposals have received approval from the Education Department, and only 4 out of the 23 are considered eligible for being accommodated on the aided posts.

11. What is prima facie evident to us is the discrepancy in the figures of the petitioners proposals and the proposals of the non-petitioners and since, we find a huge variance, we would like Mr. Samant, the learned Additional Government Pleader, to produce before us the data in a tabular form in respect of the 360 non-petitioners, of whom only 23 have been approved on unaided basis.

12. Since, the Consent Terms are executed on 13/09/2021, it is almost 4 years when the whole mechanism ought to have been worked out, but for some reason the procedure is dragging its feet, and though we do not intend to blame anyone at this prima facie stage, but expect the cooperation of the Education Department, as well as the Management, as the Management being represented by Mr. Kumbhakoni, has willingly stated before us that they are ready to abide by the understanding arrived as recorded in the Consent Terms, but the posts must be available for the accommodation.

13. There is no clarity as to how many posts on aided and non-aided division are available, and, therefore, we direct Mr. Kumbhakoni, the learned Senior Counsel representing the Management to place before us the following:

a) The statistics about the available posts with the respondent Management on aided and non-aided division as on 31/12/2024.

b) The projection of the posts, which are likely to fall vacant and available for being filled in on aided and un-aided division for two years i.e. 2025 and 2026.

c) The present statistics of the aided and un-aided posts, which are occupied in the respective schools including the petitioners, who are appointed or absorbed in either aided or unaided division in terms of the Consent Terms dated 13/09/2021.

14. We can only express that, the aforesaid information would be of some assistance to us in redressing the grievance raised before us to various Writ Petitions by the persons, who have agreed to give up their back-wages, and also await salary, when they are brought on aided basis as presently they are being paid only by the Management, and despite having been worked for a longer period of time. We direct Mr. Samant, to file an affidavit before us while he places the data about how they are processing the proposals of the non-petitioners, and how many proposals are pending before them as on date.

Let the affidavit be filed within a period of four weeks with the direction to furnish the affidavit in advance to the counsel for the petitioners. Re-notify to 10/02/2025, at 2:30 p.m.

Interim orders if any in operation are continued till the next date.

6. In the above backdrop, we have considered the Civil Application dated 18th July, 2024 filed by the Rayat Education Society, in which, they have put forth a prayer for modification of the order of this Court dated 12th February, 2024 reproduced above and at the same time, it is further prayed that the Management may

be permitted to grant appointments to the Teachers who have succeeded in the selection process conducted under the Pavitra Portal and fill up 1481 vacancies that were available on the aided establishment.

7. The learned Advocate General has canvassed before us that the State Government is facing a peculiar situation. On the one hand, the Education Society has entered into a compromise with several Petitioners. However, since some of the appointments made by the Education Society appear to be *dehors* the rules, the Government cannot grant approval to such appointments through a sweeping common order. The proposals that were forwarded to the Government were considered and out of 610 such proposals seeking approval, 274 were allowed and 336 have been rejected.

8. The further difficulty with the State Government is that the Pavitra Portal selectees are waiting for more than 15 months for appointments. Having passed the selection test through the Pavitra Portal, they have a legitimate right to be appointed since there are vacancies available and their selections, subject-wise, are meant for

filling up such vacancies. According to the records, as on date, there are around 1481 vacancies on the aided establishment. He submits that these Pavitra Portal selectees are now becoming restless and are praying for liberty to opt for other Institutions where permanent posts on the aided establishment are available. They are under a prohibition to change their options since once they opt for a particular Institution while undergoing the Pavitra Portal selection, they are not permitted to change their options and shift to any other Education Institution.

9. The learned Advocate General, therefore, prays that by deducting the number of Petitioners before this Court today, out of the 1481 vacancies on the aided establishment, permission be granted by slightly modifying the earlier order, for recruiting the Pavitra Portal selectees. Insofar as the Petitioners before this Court are concerned, equal number of vacancies, out of 1481, may be kept vacant and the Petitions may be heard finally.

10. The learned Senior Advocate Mr. Kumbhakoni appearing on behalf of the Rayat Education Society submits that

there are hundreds of posts which are vacant today and unless these posts are filled in, object of imparting education is likely to be in jeopardized. There are continuous vacancies that are occurring, primarily on account of retirements or promotions and on account of voluntary retirement, medical disability or the demise of an employee. According to their records, it appears that in the coming two years, another about 400 plus vacancies are expected.

11. The learned Senior Advocate Mr. Desai and the learned Advocates along with him submit that, number of posts on the aided establishment, equal to the number of the Petitioners before the Court today, be kept vacant in order to enable a reasonable opportunity to these Petitioners to establish their case before the Court and in such an eventuality, they would stand a good chance for being appointed atleast on the unaided establishment, if not directly on the aided establishment. They are Teachers who have been working for more than one decade and some are working even beyond two decades, for whom, a claim for being absorbed on the aided establishment, would be a prayer that would be strongly presented to the Court. They are all united in submitting that out of

the 1481 vacancies on the aided establishment, the posts commensurate to the number of the Petitioners as on date, may be kept vacant in order to give a fair chance to these Petitioners to make out their case before the Court.

12. In view of the above, the earlier order of this Court dated 12th February, 2024 would stand modified in the above terms.

13. For clarity, we record that out of the 1481 vacancies available on the aided establishment, seats equal to the number of the Petitioners, which are said to be approximately 650 or could be a little more, considering the Petitions already filed in this Court, will have to be reserved. Hence, the State Government would proceed to allocate the Pavitra Portal selectees to the Rayat Shikshan Sanstha, in order of their merit, subject-wise/reservation-wise, for appointment as Shikshan Sevak on the aided establishment.

14. Needless to state, while computing the number of the Petitioners, the cut off date, as agreed in the earlier consent terms, which was the Academic Year 2016-2017, would be applicable to

the cases of these Petitioner, who are appointed in the Academic Year 2016-2017 or therebefore. Those Petitioners who have been appointed after the Academic Year 2016-2017, would not be included in this order and their Petitions, if any, would be considered independently. In short, no vacancies for such category of Petitioners or non-Petitioners, would be kept vacant.

15. For the purpose of making an assessment of the number of Petitioners, who have been in employment from or before the Academic Year 2016-2017 in the reverse order, for the sake of reference, the learned Advocates of these Petitioners would tender a list of such Petitions, with the number of Petitions and the number of Petitioners, within 15 days. Such list shall be forwarded to the State Government by the Management after conducting a due scrutiny to assess as to which of the Petitioners are working in the Academic Year 2016-2017 and prior thereto.

16. Insofar as the long list of Pavitra Portal selectees available with the State Government and for which the learned Advocate General has sought a relaxation, we record that after

filling in the posts of vacancies on the aided establishment in the order of merit and subject-wise/reservation-wise, the available Pavitra Portal selectees, who were not able to be allocated the posts by following the aforesaid exercise, would be permitted to change their options. The State Government, without laying down any precedent and as a one time measure in the peculiar facts and circumstances, would allocate such Pavitra Portal selectees to available Institutions where vacancies on aided establishments are available and such candidates, would then be deployed with such Institutions by strictly following their merit list and subject/reservation. This would be subject to any option as may be exercised by such Pavitra Portal allottees.

17. Let this exercise be completed within 45 days after receiving the list from the Management and the options exercised by the Pavitra Portal allottees, once they have expressed their modified preferences.

18. Insofar as those proposals, which have been rejected by the State Government, pursuant to the earlier orders of this Court,

the aggrieved candidates would be at liberty to avail of a remedy as is permissible in law. We expect that the decision rejecting such proposals would be communicated to the respective Managements as well as the employees, expeditiously. The decisions may be communicated within three weeks, if not yet communicated.

19. Insofar as the vacancies on aided establishments, which are to be filled in, in the light of the aforesaid directions, the Education Society shall prepare proposals in the order of merit and forward them for approval to the competent Authority of the State Government.

20. For further hearing in these matters, to the extent of the Petitioners, stand over to 30th June, 2025 at 2.30 p.m.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)