



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO. 1178 OF 2026

Waghur Shikshan Prasarak Mandal Through
Its Chairman Deelipsingh P Patil

...Petitioner

VERSUS

State Of Maharashtra And Another

...Respondents

...

Mr. S.V. Dixit, Advocate for the Petitioner
Mr. S.B. Narwade, AGP for Respondents/State

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

DATE : 06 FEBRUARY 2026

ORDER :

1. In view of our order dated 03.02.2026, Respondent No. 2 is present. Learned AGP tenders the order issued by Respondent No. 2 dated 04.02.2026, which is taken on record by marking as Exhibit-'X', thereby Respondent No. 2 has passed an order for surplus teacher to be provided to the petitioner-institution. When we asked as to why the order has been passed/given, it has been tried to be stated that in order dated 03.02.2026 we had mentioned word 'letter', which has been understood as order for accommodating the surplus candidates. We are reproducing the part of the order;

"2. Learned AGP submits that respondent No. 2 would remain present on 06.02.2026 along with list of surplus candidates, along with letter,

and also list of remaining persons from Pavitra Portal, if available.”

2. There is absolutely no mention in the order that, Respondent No. 2 should issue the order regarding absorption of surplus teachers.

3. Learned Advocate for the petitioner places on record copies of two orders dated 16.01.2024, thereby on the same date two surplus teachers were directed to be accommodated by the petitioner. The place or school where they were directed to be absorbed are the same. He also points out that the teacher who has been now absorbed by order dated 06.02.2026 has not passed TET or TAIT and in view of decision in ***Anjuman Ishaat-e-Taleem Trust Vs. State of Maharashtra & Others*** (2025 SCC OnLine SC 1912), TET is compulsory. It is therefore difficult for the petitioner to absorb the said teacher.

4. Learned AGP then points out paragraph no. 217 of the judgment of Hon'ble Supreme Court wherein it is stated that in-service teachers having more than five years to retire on superannuation shall be under an obligation to qualify TET within two years from the date in order to continue in service and therefore, here, time is available for this teacher to pass TET exam. On this point, now, we must observe that we have come across so many orders passed by the Education Officers without observing the mandate in **Anjuman (supra)**. In those matters, we have

given directions to the Education Officers to abide by the said decision and now Respondent No. 2 wants to rely on the decision in **Anjuman (supra)** to protect her order dated 04.02.2026. On this point, certainly, observations will have to be made that said concession is definitely given to the in-service teachers, but when it will come to the recruitment or appointment, the petitioner has the choice to accept such teacher, who is not qualified, which would be then with a rider of compulsion to that person to pass TET. Here, in this case, petitioner had made application for publishing an advertisement on the Pavitra Portal and learned AGP informs that said advertisement can be put on the Pavitra Portal only after the permission or sanction is given by the Respondent No. 2. The petitioner has annexed the copy of newspaper in which the advertisement was published. It specifically states that the vacancy would be filled on the basis of name of the teacher in Pavitra Portal, who possesses TET, CTET/TAIT, as the case may be. Now in the nutshell, when Respondent No. 2 herself had permitted the advertisement on Pavitra Portal for the petitioner thereby indicating that the candidate should have passed TET etc., now the action of absorption order dated 04.02.2026 is absolutely not justified. Therefore, we are setting aside the order dated 04.02.2026.

5. It appears that before the order regarding absorption was passed, Respondent No. 2 had not considered the earlier two orders passed by

her own office by which the petitioner had absorbed two teachers. When there was a specific requirement, then the person who is not qualified ought not to have been directed to be absorbed. We must also observe that, Respondent No. 2 was not well equipped and prepared in giving instructions from her conduct before the Court. Each time, she was taking instructions from another officer and then passing it on to the learned AGP. Such conduct is not helpful to a person who is supposed to take decisions and as aforesaid we have observed that we had not directed her to issue any order regarding absorption of surplus teachers. There ought not to have been any haste on her part.

6. We had given an option to the learned advocate for the petitioner that if the petitioner finds the teacher in letter Exhibit-X suitable, whether the petitioner would be willing to absorb him with a condition that he would qualify TET. Learned advocate for the petitioner, upon instructions from the client who is present, makes a statement that the petitioner is ready to wait for the next round of Pavitra Portal in view of the fact that the statement has been made by Respondent No. 2 that as there is no provision to put the list of remaining waiting candidates on Pavitra Portal as once the process of 1:10 was undertaken. We are making a passing reference that this interpretation of rule appears to be wrong. If no suitable candidate is found or as in the present case only five

candidates appeared from the list and one candidate, who has been given appointment order, did not join the post is concerned, there should not be any hurdle in supplying the list of further candidates. The statement is made that the next round of Pavitra Portal would commence in two months.

7. In view of stand taken by the petitioner to wait, there is nothing in the present petition which can be granted. Hence, we dispose of the writ petition.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

Bhagyawant Punde