2026:BHC-AUG:11568-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

916 WRIT PETITION NO. 1592 OF 2026

DILKHUSH PARVAT RAHANE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. U.B. Deshmukh, Advocate for petitioner

Mr. S.K. Tambe, AGP for respondent Nos.1 to 4

...

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

DATE : 13th MARCH, 2026

ORDER : (PER : HITEN S. VENEGAVKAR, J.)

. Present petition is filed challenging the order dated 28.11.2025 passed by Education Officer (Secondary), Zilla Parishad, Ahilyanagar and the consequent order of demotion / reversion passed by respondent Management dated 02.01.2026. The present petitioner was initially appointed in the school of respondent Nos.5 and 6 on the post of Peon. He was subsequently promoted for the reason that during the subsistence of his service he has acquired higher education and hence was promoted to the post of Assistant Teacher in accordance with the Government Resolution dated 10.06.2005

and 15.09.2011. The petitioner states that his proposal for approval to the post of Assistant Teacher was forwarded by respondent No.5 to the office of respondent No.4 on 17.09.2025. Respondent No.4 on scrutinizing proposal of petitioner passed an order dated 28.11.2025, thereby rejected proposal by observing that approval cannot be granted to the promotion of petitioner on the ground that the recruitment is not made through Pavitra Portal.

2 We have perused the order passed by respondent No.4, wherein the Education Officer while rejecting the proposal has specifically made reference to the Pavitra Portal as well as has mentioned that the appointments are required to be done by 100% direct recruitment and by following the roaster. The learned Advocate appearing for petitioner has submitted that the appointments by promotion from the non teaching staff to teaching staff has been permitted by this Court by various Judgments holding that the Government Resolution dated 10.06.2005 stipulates the said promotion of non teaching staff as Shikshan Sevak and, therefore, have upheld several appointments of the non teaching to the post of Assistant Teacher. He has relied upon Judgments passed by different Benches of the Bombay High Court and has prayed for setting aside the order passed by respondent No.4 rejecting his proposal.

3 Learned AGP appearing for respondent Nos.1 to 4 preliminary submits that the consequential order passed by Management thereby demoting the petitioner from the post of Assistant Teacher to his original position of Peon is the order which can be challenged under Section 9 of the M.E.P.S. Act. He further supports the order passed by the Education Officer by stating that the reasons assigned therein are proper and legal.

4 As far as the preliminary objection of learned AGP concerning the maintainability of present petition, we find that the objection is not tenable for the reason that the main order that has been assigned in the present petition is the order passed by respondent No.4 – Education Officer below the proposal forwarded by respondent Nos.5 and 6 for approval of the promotion granted to present petitioner. The said approval order is amenable to the writ jurisdiction being the order passed in an administrative capacity by respondent No.4. The order subsequently impugned dated 02.01.2026 by respondent Nos.4 and 5 is a consequential order which relegates the petitioner back to his original position. This cannot be said that he has been reduced in rank. Therefore, the preliminary objection raised by learned AGP is rejected. As far as the merits of the matter pertaining to the order passed by Education Officer on 28.11.2025 is concerned, it is a settled principle of law and from the catena of Judgments relied by petitioner that

the promotions pertaining to the employees from non teaching staff to the teaching staff are permitted and even the State policy supports the same. This Court has already taken a view that those are separate lines of promotion which did not have to go through the process of Pavitra Portal and, therefore, the reason assigned by respondent No.4 in order dated 28.11.2025 is not tenable. Hence, we **partly allow** the petition.

5 The impugned order passed by respondent No.4 dated 28.11.2025 stands quashed and set aside.

6 We direct respondent No.4 to re-consider the proposal of petitioner for granting approval to the promotion from the post of non teaching staff to the teaching staff as Assistant Teacher as per prevailing Judgments passed by this Court and also as per the Government Resolution dated 10.06.2005 and shall not be rejected on the same ground.

7 The decision be taken within a period of eight weeks from today.

8 No order as to costs.

(HITEN S. VENEGAVKAR, J.) **(SMT. VIBHA KANKANWADI, J.)**

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