



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

937 WRIT PETITION NO. 2387 OF 2026

Kamal Balu Kunde

....Petitioner

VERSUS

The State of Maharashtra & others

.....Respondents

Mr. A. S. Khedkar, Advocate for the Petitioner.

Ms. N. B. Kamble, AGP for the State.

Mr. S. B. Pulkundwar, Advocate for Respondent Nos. 2 and 3.

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

DATE : 6th MARCH, 2026.

PER COURT : (**PER HITEN S. VENEGAVKAR, J.)**

1. The present Petition is filed for directions to Respondent No. 2/Chief Executive Officer, Zilla Parishad, Ahilyanagar, to allow the Petitioner to join the services as teacher in accordance with the appointment order dated 25.02.2025. In the alternate, the Petitioner seeks direction from this Court to the extent that the various representations submitted by the Petitioner be decided by Respondent No. 2.

2. The factual matrix that constitutes present Petition is in respect of recruitment process which was conducted by Respondent

No. 2 for the post of Contractual Teacher. In the said process, the Petitioner participated and was successfully shortlisted. After the entire process of publication of merit list, documents verification and scrutiny of the credentials of the present Petitioner, an appointment letter was issued in favour of the Petitioner on 25.02.2025.

3. Learned Advocate for the Petitioner submits that when the appointment order was issued and when the process was initiated, the issue pertaining to the legal validity of recruitment within PESA area was subjudice before the Hon'ble Supreme Court and therefore, there was no clarity and it was in the clouds of uncertainty that whether the appointment of the Petitioner is legal or otherwise will be hit by judicial process which was still pending adjudication, the Petitioner did not join the services even after the appointment order was received. He further argues that on 06.10.2025, the Hon'ble Supreme Court by passing interim order in SLP (Civil) No. 22109/2025 directed the Zilla Parishad to fill in 50% of the vacant posts from the reserved category. Thus, the defacto claim which was operating on the appointment of the post of teachers in Zilla Parishad was vacated and there was clarity on the issue of this appointment. The Petitioner, therefore, immediately approached the office of

Respondent No. 2 and submitted representation expressing desire to take up appointment in pursuance of the appointment order dated 25.02.2025. The case of the Petitioner is that inspite of repeated requests to join the services and also inspite of submitting several representations to the office of Respondent No. 2, the Petitioner was not permitted to join the post of teacher with Respondent No. 2. It is in these circumstances, the Petitioner has approached this Court by way of present petition.

4. We have heard learned Advocate for the Petitioner at length and the crux of the argument is based upon the stay which was granted on the appointment of teachers in the Zilla Parishad school from reserved category by Supreme Court during the period when Petitioner was appointed. After the order vacating stay was passed by the Hon'ble Supreme Court, it is submitted that the Petitioner immediately approached the office of Respondent No. 2 showing willingness to join the services as per appointment order. We have perused the appointment order annexed with the present petition which categorically mentions that it was on the directions of the State Government to appoint teachers in PESA area on urgent and temporary basis. The appointment order also mentions that the

appointments made in the said selection process will be subject to the outcome of the decision of the Hon'ble Supreme Court in SLP (Civil) No. 22109/2023. One of the conditions that was clearly mentioned in the appointment order is that the candidate to whom appointment order is issued should join the post within a period of 30 days at the place where appointment has been made by Respondent No. 2, failing which, the appointment order shall stand cancelled.

5. In view of the terms and conditions mentioned in the appointment order, we do not think it appropriate to give any direction to Respondent No. 2 to allow the Petitioner to join the services for the reason that the appointment order was duly served upon the Petitioner and it was on the choice of the Petitioner that she has not joined the services. Secondly, the appointment was on contract for temporary period which as on date has ceased to be operative in terms of Clause No. 12 of the appointment order. Lastly, the argument raised by Petitioner pertaining to the pendency of the Special Leave Petition and the issue before the Hon'ble Supreme Court, does not hold any ground for the reason that the appointment itself was on contract and for temporary period subject to the final

outcome of the decision in the pending litigation before the Hon'ble Supreme Court. Thus, there was absolutely no scope for confusion and the confusion has been self-created by the Petitioner on its own. Thus, immediately after the clarification order passed by the Hon'ble Supreme Court on 06.10.2025, the act of the Petitioner to approach Respondent No. 2 and show willingness to join services cannot be taken as a bonafide act on the part of the Petitioner to act upon the appointment order, which by the time had ceased to operate due to non-joining of Petitioner on the post on or before 30 days from 25.02.2025 i.e. date of appointment order.

6. In the aforestated facts and circumstances and for the reasons mentioned above, writ petition stands dismissed. No orders as to cost.

(HITEN S. VENEGAVKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

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