



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION No.3398 OF 2025

Sau. Jyoti w/o. Vijay Ingle
@ Ku. Jyoti d/o. Narayanrao More,
Aged 52 years, Occ.: Service,
R/o. Bhavani Vesh,
At. Po. Daryapur, Tah. Daryapur,
Distt. Amravati-444 803. : PETITIONER

...VERSUS...

1. State of Maharashtra,
Through Deputy Director of Education,
Tope Nagar, Amravati.
2. Education Officer (Secondary),
Amravati, Zilla Parishad, Amravati.
3. President/Secretary,
Smt. Gayabai Raut Education Society,
Yeoda, Tah. Daryapur, Distt. Amravati.
4. The Headmaster,
Smt. Gayabai Raut High School, Yeoda,
Tah. Daryapur, Distt. Amravati. : RESPONDENTS

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Mr. Mangesh Bute, Advocate for Petitioner.
Mr. S.V. Narale, Assistant Government Pleader for Respondent Nos.1
and 2.
Mr. S.M. Vaishnav, Advocate for Respondent Nos.3 and 4.

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CORAM : SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.

DATE : 21st JANUARY, 2026.

ORAL JUDGMENT : (Per : NANDESH S. DESHPANDE, J.)

1. Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2. This is a petition filed under Article 226 of the Constitution of India seeking direction to the respondent No.3 President, Secretary of the Smt. Gayabai Raut Education Society, Yeoda to appoint the petitioner on the vacant post of B.A. B.Ed. Assistant Teacher of Secondary School from the date when she applied before the said respondent.

3. In nutshell, the facts which can be stated are that :

On 16.11.1998 the petitioner having completed her B.A. B.Ed. and appointed on the post of Assistant Teacher on the Pay-scale of HSC D.Ed. The petitioner made representation on 25.10.2024 that after retirement of one teacher, namely, Kalpana Mohan Agarkar which was due on 31.10.2024 she should be appointed on the post which is falling vacant. On 18.12.2024 the respondent Nos.3 and 4 issued a letter to the petitioner that at the time of appointment she had given an undertaking that she would not claim the post which is falling vacant and, therefore she could not be appointed. Learned counsel for the petitioner, therefore, claims that she has a right to be appointed on the post which has falling vacant. Learned counsel also places reliance on the order of

the Deputy Director of Education in that regard which has directed that the claim of the petitioner should be considered in view of the prevalent law in that regard.

4. We have heard Mr. Mangesh Bute, learned counsel for the petitioner, who while reiterating the averments made in the petition tries to make out a case that the petitioner has legal right to be appointed on the post which has fallen vacant. He places reliance on the Government Resolution dated 14th November, 2017 in that regard.

5. Per contra, Mr. S.M. Vaishnav, learned counsel appearing for respondent Nos.3 and 4 while taking us through the reply filed by it and more particularly staff justification canvassed argument that there is no vacant post and, therefore, the petitioner cannot be appointed.

6. We have considered the contentions canvassed by the learned counsel for the respective parties. From the staffing pattern filed by the respondent Nos.3 and 4 on record, it is amply clear that there is no vacant post and, therefore, there is no question of the petitioner being appointed on the said post. Even if the undertaking given by the petitioner is considered *stricto sensu*, the same would be effective only if the vacant post is available. However, looking to the fact that there is no vacant post available

as is clear from the staffing pattern produced before us, the claim of the petitioner cannot be considered.

7. In that view of the matter, we are of the considered opinion that the petition lacks made and is liable to be dismissed.

8. The petition is accordingly dismissed. No order as to costs.

9. Rule is discharged accordingly.

(NANDESH S. DESHPANDE, J.)

(SMT. M.S. JAWALKAR, J.)