



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION NO. 2695 OF 2026

1. Rashtriya Shaikshanik, Samajik,
Sanskrutik Va Krida Vikas Sanstha,
Dusarbid, Distt. Buldhana (Minority
Institution) having office at
Dusarbid, Tq. Sindkhed Raja, Distt.
Buldhana, Through its Chairman -
Shaikh Irfan Ali.
2. Prof. Javed Khan Urdu High School,
Dusarbid, Tq. Sindkhed Raja, Distt.
Buldhana. Through Headmaster.
3. Shaikh Waseem Shaikh Zaker
Aged about 41 years, Occ. Service as
Assistant Teacher, C/o. Prof. Javed
Khan Urdu High School, Dusarbid,
Tq. Sindkhed Raja, Distt. Buldhana.

... PETITIONER

...VERSUS...

1. State of Maharashtra, through its
Secretary, Education and Sports
Department, Mantralaya, Mumbai-
32.
2. The Education Officer (Secondary),
Zilla Parishad Buldhana, Distt.
Buldhana.
3. Nagar Parishad Urdu High School,
Deulgaon Raja, Distt. Buldhana.
Through its Head Master.

...RESPONDENTS

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Mr. R. D. Karode, Advocate for the petitioner.
Ms. M. S. Naik, AGP for the respondent(s)/State.

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

DATED : 02nd APRIL, 2026.

ORAL JUDGMENT (NANDESH S. DESHPANDE, J.)

1. Notice to the respondents.
2. Learned AGP waives notice for respondent nos. 1 and 2.
3. In view of the directions we are issuing herein below notice to the respondent no. 3 is dispensed with.
4. **Rule.** Rule is made returnable forthwith.
5. The present petition seeks a direction setting aside order dated 10.03.2026 issued by the respondent no. 2, declaring the petitioner no. 3 as a surplus.
6. The facts as can be seen from the petition are as under:-
 - a) The petitioner no. 1 – Society is recognized as the minority institution and manages the petitioner no. 2 – school.

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b) On 01.04.2011 the petitioner no. 3 having necessary qualification was appointed with the petitioner no. 2 – School by following due process of law.

c) The appointment of the petitioner no. 3 was also approved by the Education Officer on 19.09.2011.

d) The respondent no. 2 – Education officer has issued the staffing pattern for teaching and non-teaching staff for the academic year 2025-2026.

7. It is the contention of the learned counsel for the petitioners that petitioner no. 3 is working as an Under Graduate Teacher on Standard 1, wherein the strength of the students is 26. Even though the Schedule appended to the Right to Education Act, 2009, (for Short, “RTE Act”), framed under Sections 19 and 25, shows the number of teachers as 2, the respondent no. 2 shows only one post of Under Graduate Teacher as a sanctioned post.

8. Learned counsel for the petitioners also placed reliance on the Government Resolution issued by the respondent no. 1 on 15.03.2024, whereby this position has been clarified. According to the said Government Resolution, if the number of students would

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between 20 to 60, the sanctioned post is 2.

9. He further takes us through the details of teachers as per the Shalarth Portal to submit that, in fact, two teachers are working, which is according to the provisions of the Schedule mentioned supra and the Government Resolution issued by the State of Maharashtra.

10. It is, therefore, his contention that the respondent no. 2 ought not to have declared the petitioner no. 3 as surplus. The order dated 10.03.2026, declaring the petitioner no. 3 as surplus, is under challenge in the petition.

11. As can be seen from the averments in the petition, that after passing of the order dated 10.03.2026, impugned in the petition, the petitioner no. 3 has neither raised any grievance before the authority regarding the applicability of the schedule of the RTE Act nor the Government Resolution mentioned supra.

12. We, therefore, dispose of the petition with a direction to the respondent no. 2 to decide the grievance of the petitioners, and more particularly that of petitioner no. 3, in view of the facts stated hereinabove.

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13. The learned counsel for the petitioners submits that the petitioner no. 3 is still working with the respondent no. 3, in spite of the fact that he has been declared surplus and has been directed to be absorbed in Nagar Parishad Urdu High School, Deulgaon Raja, District Buldhana.

14. We, therefore, direct the respondent no. 2 not to disturb the ongoing posting of the petitioner no. 3 with the petitioner no. 2 school till 15.05.2026, and decide the representation of the petitioner no. 3 till that date.

15. In view of the fact that the petitioners have not chosen to make any representation, we further direct, in order to balance the equities, that the present petition be treated as a representation to the respondent no. 2, who would decide the same in accordance with law as stated supra.

16. Writ Petition is disposed of as such.

(NANDESH S. DESHPANDE, J.)

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

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