



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.3037 OF 2026

Rajendra Gangadhar Menkudale,
Aged about 57 years,
Occu. Service, R/o. Kolhe layout,
Darwha Road, Yavatmal,
Tahsil and Distt. Yavatmal.

: PETITIONER

...VERSUS...

1. The Municipal Council,
Yavatmal, through Chief Officer,
Yavatmal.

2. Deputy Director of Education,
Amravati Division, Amravati.

: RESPONDENTS

Mr. Rugved Dhore, Advocate for Petitioner.

Mr. S.C. Bhalerao, Advocate for Respondent No.1.

Mrs. D.I. Charlewar, Assistant Government Pleader for Respondent
No.2.

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

DATE : 15th APRIL, 2026.

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

1. Not on board. Taken on board.

2. Issue notice to the respondents.

3. Mr. S.C. Bhalerao, learned counsel waives notice on
behalf of respondent No.1.

4. Mrs. D.I. Charlewar, learned A.G.P. waives service of notice on behalf of respondent No.2.

5. Rule. Rule made returnable forthwith.

6. The present petition challenges the order dated 23.3.2026 passed by the respondent No.1 Municipal Council, Yavatmal thereby declared petitioner as surplus Teacher in the Primary School run by Zilla Parishad, Yavatmal.

7. The facts which are necessary for determination of the petition are as under :

The petitioner came to be appointed as an Assistant Teacher in the Primary School run by Zilla Parishad, Yavatmal on 16.7.1992. Thereafter, on 24.10.2011 having regard to the qualification of petitioner, the petitioner came to be posted on the post of trained graduate Teacher and entrusted with duty to teach higher classes of 5th to 8th. It is pointed out by the learned counsel for the petitioner that in the order of posting there was specific clause clearly stating that in case of fall in the number of students in any of the year and in case of non-availability of required number of students, the services of such Teacher would be converted into the normal Assistant Teacher immediately in the next month on the pay scale available to such Teacher. Thereafter, on 12.1.2018 the

Teacher like petitioner was requested to choose one of the three groups of subjects.

8. Since the petitioner at the said period was discharging additional duties as Center Head, he chose Social-Science as his subject and came to be posted at Municipal Council, Higher Primary School No.12 at Yavatmal. Furthermore, as per the condition of said choice, the subject once chosen will not be allowed to change for a period of five years. It is further stated in the petition that in Marathi medium branch of said primary school, Yavatmal there are total 62 Teachers wherein the petitioner is at Sr. No.10 of the seniority list and there is no reasons that a separate subject wise seniority list is to be maintained. However, the same has been done in which name of the petitioner is at Sr. No.2. In the backdrop of these facts and more particularly since no option was made available to the petitioner for change of subject, On 23.3.2026 the petitioner received an order from the respondent No.1 declaring him as a surplus and forwarding his name for absorption to the respondent No.2, on 27.3.2026. The petitioner preferred representation which admittedly has not been decided as yet.

9. In the conspectus of these facts, the present petition is filed seeking direction as mentioned supra.

10. We have heard Mr. Rugved Dhore, learned counsel for the petitioner. He submits that the order cannot withstand the scrutiny of law on a very simple premise that neither an opportunity of hearing was given to the petitioner nor he was heard before passing the impugned order. He further submit that he has pointed out all these things in his representation which is pending till date.

11. Mr. S.C. Bhalerao, learned counsel on behalf of respondent No.1 states that the order is perfectly legal and there is no question of either hearing the petitioner or issuing any notice to him before declaring him as surplus. He, therefore, opposed the contention raised in the petition.

12. Having considered the factual aspect of the matter as narrated by us herein above and more particularly in view of the fact that representation dated 27.3.2026 is still pending, we direct the respondent No.1 to decide the representation in accordance with law within three weeks from the date of this order.

13. Having considered this fact, we direct the respondent No.1 not to give effect to the order dated 23.3.2026 to the extent of petitioner.

14. The petitioner is directed to appear before the respondent No.1 on 20th April, 2026.

15. With this direction, the petition is disposed of.

(NANDESH S. DESHPANDE, J.)

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

wadode