



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8046 OF 2021

Ms. Kiran d/o. Ramkishan Salgar
Age: 26 years, Occu: Services
as Shikshan Sevak R/o. at present
at Sagroli, Tal. Biloli, Dist. Nanded.

...Petitioner.

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
School Education Department,
Mantralaya Mumbai-32.
2. The Deputy Director of Education
Latur Division Latur.
3. Sanskruti Samvardhan Mandal,
Sagroli, Tal. Biloli, Dist. Nanded,
Through its Secretary.
4. Shri Chhatrapati Shivaji High Court
and Junior College, Shardanagar,
Sagroli, Tal. Biloli, Dist. Nanded.
Through its Head Master.

...Respondents

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Mr. V. S. Panpatte, Advocate for petitioner.
Mr. A. S. Shinde, AGP for Respondent Nos. 1 and 2.
Mr. L. S. Shaikh h/f Mr. B. P. Ganore, Advocate for Respondent Nos. 3
and 4.

CORAM : KISHORE C. SANT &
AJIT B. KADETHANKAR, JJ.

RESERVED ON : 22nd JULY 2026.

PRONOUNCED ON : 03rd SEPTEMBER 2026.

JUDGMENT :- [PER: KISHORE C. SANT, J.]

1. Heard Mr. Panpatte, the learned Advocate for the petitioner, Mr. Shinde, the learned AGP for Respondent/State and Mr. Ganore, learned learned Advocate for Respondent Nos. 3 and 4.
2. Rule. Rule made returnable forthwith. By consent of the parties the petition is taken up for final disposal at the stage of admission.
3. The present petitioner has approached this Court for quashing and setting aside the order dated 15/03/2021 passed by Respondent No.2/Deputy Director of Education, Latur Division Latur, thereby refusing to grant approval to the appointment of petitioner as a Shikshan Sevak and for releasing the arrears of salary. It is stated in the letter of refusal that the appointment of the petitioner is made without obtaining no objection certificate from the authority. It is further stated that in view of Government decision dated 23/06/2017, the vacant posts of Shikshan Sevaks are to be filled in only through Pavitra Portal.
4. It is the case of the petitioner that the petitioner is having qualification to be appointed to the post of Shikshan Sevak. She belongs "Hatkar" caste which falls under the Nomadic Tribe (C) category. The

respondent Nos.3 and 4 issued an advertisement in the newspaper namely, "Daily Mahasagar" dated 30/05/2019 to fill up the post that fallen vacant due to retirement of one Arun Upadhyay of Shikshan Sevak in the subject of Physics in Respondent No.4/college. The advertisement was also in respect of other posts as well. The petitioner was selected after following process. The respondent/college sent a proposal to respondent No.2 for filling up the vacancy. However, since there was no reply/response from the office of Deputy Director, the Respondent/college advertised the said post. The respondent No.3/management passed resolution dated 13/09/2019. The petitioner thus came to be appointed on 06/08/2019. The Respondent No.3/management sent a proposal seeking approval. It was clearly stated that the petitioner was appointed on clear, vacant and sanctioned post reserved for N.T. Category. However, by impugned order dated 15/03/2021, respondent No.2 refused to grant approval to her appointment. The petitioner is thus before this Court.

5. Mr. Panpatte, the learned Advocate for petitioner, vehemently argued that the petitioner was appointed by following due process of

law. The advertisement was issued only after finding that there was no response from the Respondent No.2 to the application filed by the management seeking permission to issue advertisement. He relied upon the advertisement showing that the post of one Shikshan Sevak for Physics subject was shown to be reserved for a person belonging to Open/NT category, on consolidated honorarium of Rs.9,000/-. Though a letter was sent by the Respondent/management to the Deputy Director on 25/02/2019, still no reply was given. It was thus presumed that there was no objection to publish the advertisement, and accordingly, the advertisement was published. No fault can be found with the management.

6. In support of his submissions, he relied upon the judgment passed by the Division Bench of this Court at principal seat at Mumbai in Writ Petition No.8587 of 2016 and other connected writ petitions. He submits that, in that case, the writ petitions were allowed in similar set of facts. The impugned orders were quashed and set aside by directing the education officers to examine the cases independently and grant approval to each of the teachers in cases (i) where the recruitment

process had commenced prior to Government Resolution dated 02/05/2012 (ii) where the appointments were made for filling up vacancies for subjects English, Mathematics and Science and (iii) where recruitment was made to fulfill the backlog of reserved category candidates. He thus submits that same analogy needs to be applied in the present case as well. It is because of the inaction in promptly responding to the letter of the management that this situation has arisen.

7. He further relied upon the judgment in the case of ***Rajan Sahadeo Ratul and Ors. The State of Maharashtra and Ors.***¹ wherein it was held that the management is within its rights to commence the selection process in absence of any response from the Government, when no lapse is pointed out in the selection procedure. In that view of the matter, the order refusing approval was quashed and set aside. The petitioner thus heavily relies upon these judgments. He further submits that the point of roster was not in operation for considerable period, and for that purpose, the management cannot be held to be at fault. To support this

¹ 2023 (6) Mh.L.J. 234

contention, he relied upon one more judgment passed by this Court at the Nagpur Bench in Writ Petition No. 2187 of 2020 in the case of ***Rajesh s/o. Padmakar Bhangale Vs. The State of Maharashtra and Ors..***

8. He further relied upon the communication dated 07.07.2023 issued by the Deputy Secretary, School Education and Sports Department to the Commissioner (Education), State of Maharashtra, the Divisional Commissioners of all divisions, and the Chief Executive Officers of all Zilla Parishads. He submits that in view of said communication, temporary appointments can be made till the Pavitra Portal starts functioning properly. He submits that, considering the overall situation, approval ought to have been granted.

9. The learned AGP vehemently opposed the petition. He submits that, before filling up the vacancies, no prior permission was sought by the management from the authorities. Now, the recruitment is done strictly in accordance with the policy of the Government. The recruitment is done through Pavitra Portal. Total 9,080 posts were to be filled in without conducting interviews. About 5,078 names were

recommended for appointment through Pavitra Portal, and the process of recommendation of the candidates for filling 3,011 posts was in process. The Pavitra Portal has been activated and was in operation from 23/06/2017, that is the date of Government Resolution. In addition, he submits that the petitioner has not passed Teacher Aptitude and Intelligent Test (TAIT) examination and, as such, her name is also not registered on the Pavitra Portal.

10. In support of his submissions, he relied upon the judgment in Writ Petition No. 3142 of 2020 passed by this Court, wherein it is directed that the Government Resolution dated 23/06/2017 be scrupulously followed. In cases where the management flouts the Government decision, action will be taken. He thus prays for rejection of the writ petition.

11. Mr. Shaikh, the learned Advocate for Respondent Nos. 3/Management and Respondent No.4/School supports the petition. There is also an affidavit-in-reply filed by them. It is also the case of the Management that, in spite of its letter to the Deputy Director seeking

permission to fill up the post, there was no response. The Management was therefore left with any option but to fill up the post by following procedure on its own. Before filling up the post, the post was duly advertised. Interviews were conducted. In the TIAT examination, the petitioner has secured 90 marks out of 200, as is clear from the record, and therefore, her name appeared in the list of teachers. To avoid loss to the educational career of students, she was given an appointment. He submits that, on the one hand, the authorities did not consider the proposal to appoint the teachers upon publication of the advertisement and, on the other hand, have now refused the approval, stating that there was no prior sanction obtained by the Management. Even the proposal was sent for approval to the BC Cell for verification of the roster. After verification the post of the petitioner was shown as reserved for NT category. On that count also, there is no violation of the selection process. He reiterated that the Pavitra Portal was not activated properly till 20/06/2019 and further till January 2023. The direction issued by letter dated 07/07/2023 to all the Zilla Parishads by the State clearly shows that the Managements were at liberty to fill up the posts for

temporary period. Pursuant to the said letter, there was also a letter issued by the Office of the Commissioner (Education), Pune, dated 17/08/2023, stating that on the Pavitra Portal, no action was taken for the period from 01.01.2020 to 31.12.2020, 01.01.2021 to 31.12.2021 and 01.01.2022 to 31.12.2022. He thus submits that when it is an admitted position that the Pavitra Portal was not functioning for such a long period, no fault can be found with the Management. Judicial notice can be taken of the fact that the performance of TIAT of many of the candidates was cancelled. He thus supports the recruitment process.

12. This Court has gone through the impugned order. By Government Resolution dated 23/06/2017, the State Government has now clearly formulated a policy to recruit teachers through Pavitra Portal. So far as present case is concerned, it is clearly seen that while publishing an advertisement, there was no prior sanction obtained from the authorities. The advertisement was published in the newspaper on 30/05/2019, and pursuant to the said advertisement, the petitioner's appointment was made.

13. Considering the arguments of the petitioner that, for the relevant period, Pavitra Portal was not functioning, respondent Nos. 3 and 4 relied upon the information supplied under the Right to Information Act vide communication dated 17/08/2023. This communication shows that the Pavitra Portal was not functioning from 01.01.2020 till 31/12/2020, and subsequently, the periods recorded in detail in the foregoing paragraphs. However, in the present case, the advertisement is much prior to that, i.e., 30/05/2019. There is no case that, on that day or for the relevant period, Pavitra Portal was not in operation.

14. In the case of *Shikshan Prasarak Mandal and Ors. Vs. Deputy Director of Education and Anr.*² in that case, what was directed was only to reconsider the proposals seeking approval to the appointment of the petitioner therein.

15. In the case of *Rajesh Padmakar Bhangale* (supra), there was a refusal to grant approval to the appointment of the petitioners therein. In that case, advertisement was dated 13/01/2018. The approval was rejected on the ground that the names of the petitioners were not

² WP/5245/2018 (Aurangabad)

processed through Pavitra Portal as per the Government Resolution dated 23/06/2017. It was considered that the Pavitra Portal was not functioning or activated at the relevant time, i.e., 20/08/2018. In that view, it was directed to reconsider the cases of the petitioners therein.

16. In the case of *Pranitkumar Balajirao Ankade Vs. The State of Maharashtra and Ors.*³, it was observed that the Pavitra Portal was not made fully functional till 2019. The Management had made correspondence with the Education Officer seeking permission to issue an advertisement for the recruitment of teachers, but the said was not responded. The respondents could not show that the Pavitra Portal was in operation on the date of appointment of the petitioner or on the date of issuance of the advertisement by the Management. It is specifically observed that the Pavitra Portal became operational on 20/06/2019, and in that view, it was held that there was no reason to blame the management and the school for making appointments through Pavitra Portal. In the present case, the advertisement was issued on 20/05/2019, the interviews were held on 11/06/2019, and the

3 WP/10155/2021 (Aurangabad)

appointment was made on 03/08/2020. Thus, on both the date of issuance of advertisement and the date of interviews, the Pavitra Portal was not functioning.

17. So far as judgment in the case of *Rajan Sahadeo Ratul and Ors.* (supra), is concerned, this Court held that the Management was within its rights to commence the selection process in absence of a response from the respondents. There was no lapse pointed out by the respondent/authorities in respect of the selection process. The petition was allowed in that view of the matter.

18. In the case of *Lalit Suresh Shinde Vs. The State of Maharashtra and Ors.*⁴, this Court relied upon the judgment in the case of *Rajan Ratul* (supra). It was considered that the Management had sent the proposal to the respondent/authorities; however, there was no response from the authorities. In that view, it was held that the Management cannot be blamed for issuing an advertisement. In that background, it was held that the Education Officer cannot thereafter raise objections that no prior permission was granted.

4 WP/10270/2019 (Aurangabad)

19. Considering all above, this Court finds that, in the present case, when the advertisement was issued, the Pavitra Portal was not functioning. Even on the date of interview, it was not functional. There is no explanation from the Government as to why the proposal of the Management was not responded to. Presently, it is a case where the authorities are certainly required to be blamed for not responding.

20. From the communication dated 07/07/2023, it is clear that considering the fact that the Pavitra Portal was not functioning, the Management was allowed to fill up the posts, though temporary. In the present case, it is clearly seen that the blame lies with the authorities for not responding in time. This Court clearly finds that a case is made out to direct the authorities to reconsider the case of the petitioner. Hence, following order:-

ORDER

- (i) Writ petition stands allowed.
- (ii) The impugned letter dated 15/03/2021 issued by Respondent No.2/the Deputy Director of Education, Latur Division Latur, refusing the claim for grant of approval, is

quashed and set aside.

(iii) The Respondent/authorities are directed to consider the proposal of the petitioner again. The proposal shall not be rejected on the ground of prior sanction to advertise the post and secondly that the procedure is not followed through Pavitra Portal.

(iv) It is open for the respondent/authorities to consider the proposal on other aspects and to grant approval if the petitioner is otherwise found eligible.

(v) Rule made absolute in above terms.

[AJIT B. KADETHANKAR, J.]

[KISHORE C. SANT, J.]