

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2515 OF 2021

Santosh Bapuso Mothe	.. Petitioner
Versus	
The State of Maharashtra & Ors.	.. Respondents

Mr.Utkarsha Desai h/f Mr.P.S. Bhavake for the petitioner.
Mr.N.C.Walimbe, AGP for the respondents-State.

**CORAM : R.D. DHANUKA AND
R.N.LADDHA, JJ.
DATE : 21st December 2021**

P.C.:-

1. Learned counsel for the petitioner seeks permissions to delete the name of the respondent nos.6 & 7 from the cause title of the petition. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Rule. Learned AGP waives service for the respondents-State. By consent of parties, petition is heard finally.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks an order and direction against the respondent no.5 to decide the proposal sent by the Management to the Education Officer for individual approval to the appointment of the petitioner.

4. Learned counsel appearing for the petitioner states that during the pendency of this petition, the Education Officer has already

granted approval to the appointment of the petitioner on the post in question on 23rd July 2021. He tenders a copy of the said order passed by Mr.Kiran Anant Lohar, Education Officer (Secondary), Zilla Parishad, Kolhapur. He submits that in view of the order passed by the Education Officer, prayer clause (b) does not survive. He seeks further direction against the Deputy Director of Education to include the name of the petitioner in the Shalarth Pranali and for consequential benefits.

5. In our view, the Deputy Director of Education cannot refuse to enter the name of the petitioner in the Shalarth Pranali in view of the order of approval already granted by the Education Officer. This issue is concluded in catena of decisions delivered by this Court.

6. Learned counsel for the petitioner submits that during the pendency of the Writ Petition No.8957 of 2021, the Education Officer has granted approval to the appointment of the petitioner on 9th August 2021. He tenders a copy of the said order. A copy of the said letter is taken on record. He submits that though the Education Officer has granted approval to the appointment of the petitioner, the Deputy Director has not included the name of the petitioner in the Shalarth Pranali and thus the Deputy Director of Education be directed to include the name of the petitioner in Shalarth Pranali and release the payment of salary.

7. Learned AGP however, states that the Education Officer who has passed the order has passed several illegal orders in identical matters. State Government has initiated an action against the said Education Officer. Statement is accepted.

8. We accordingly pass the following order :-

- i) The Deputy Director of Education is directed to enter the name of the petitioners in Shalarth Pranali not before the expiry of six weeks from today.
- ii) The arrears of salary, if any, shall be released by the Deputy Director of Education within four weeks from the date of entering the names of the petitioners in Shalarth Pranali.
- iii) The salary shall be paid from the initial date of appointment of each of the petitioners.
- iv) It is clear that this Court has not restrained the State Government to initiate any action against the erring officer. We have not expressed any views on the correctness of the orders passed by the Education Officer.
- v) Writ petition is allowed in aforesaid terms.
- vi) Rule is made absolute. There shall be no order as to costs. Parties to act on the authenticated copy of this order.

R.N.LADDHA, J

R.D. DHANUKA, J.