

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

WRIT PETITION NO.5951 OF 2018

Shri Baban Dhondiram Pawar

... Petitioner

Vs.

The State of Maharashtra, Thr. The Secretary,
School Education Department & Ors.

... Respondents

Mr. Narendra V. Bandiwadekar a/w Mr. Vinayak R. Kumbhar i/by
Mrs. Ashwini Navjyot Bandiwadekar for the Petitioner.
Mrs.P.J. Gavhane, AGP for Respondents No.1 to 3-State.

**CORAM : R.D. DHANUKA &
ABHAY AHUJA, JJ.**

DATE : 1ST DECEMBER, 2021

P.C. :

1. Mr. Bandiwadekar, learned counsel for the Petitioner seeks liberty to delete Respondents No.4 and 5 from the cause title of the Writ Petition. Leave to amend is granted. Amendment to be carried out forthwith. Re-verification is dispensed with.

2. Rule. Rule made returnable forthwith. Mrs. Gavhane, learned AGP for the State waives service.

3. By consent of the parties, Petition is heard finally.

4. By this Petition, filed under Article 226 of the Constitution of India, the Petitioner seeks an order and direction to Respondents No.2 and 3 to immediately include the name of the Petitioner in the list of approved teachers working in Shri Sant Tukaram Vidya Mandir, Hiware for payment of monthly salary "Online" and seeks further direction to sanction and release the monthly salary of the Petitioner from September, 2016 onwards at 20% grant which is held admissible and payable to Shri Sant Tukaram Vidya Mandir, Hiware.

5. It is not in dispute that the Education Officer has already granted approval to the appointment of the Petitioner as Assistant Teacher in open category on 15th September, 2012. It is also not in dispute that as per the Government Policy, the said school was held eligible to receive grant-in-aid in 20% grant from September, 2016.

6. Mr. Bandiwadekar, learned counsel for the Petitioner invited our attention to the letter dated 22nd January, 2018 from Respondent No.3 to Respondent No.2, annexed at Page 36 of the Petition. He submits that the Deputy Director of Education, however, has not entered the name of the Petitioner in the Shalarth

Pranali, though the approval has already been granted by the Education Officer and though the Management is held entitled to grant-in-aid at the rate of 20% with effect from September, 2016.

7. Though, by order dated 6th March, 2020, this Court has directed the Respondent No. 2 to file reply on or before 5th April, 2020, making it clear that in case of failure, the State Government will have to deposit Rs.15,000/- as costs and would not be entitled to reimburse the said amount from the public exchequer, neither affidavit in reply is filed nor the said cost of Rs.15,000/- is deposited in compliance of the order dated 6th March, 2020.

8. In catena of the decisions rendered by this Court, it is held that the Deputy Director of Education cannot refuse to enter the name of the employee whose appointment is already approved by the Education Officer. In our view, the Deputy Director of Education thus could not have refused to record the name of the Petitioner in Shalarth Pranali or would not have kept the said application pending for last several years. We accordingly pass the following order.

9. Writ Petition is allowed in terms of prayer clause (b).

10. We direct the Respondents No.2 and 3 to include the name of the Petitioner in the Shalarth Pranali within four weeks from today and shall be paid the consequential benefits by release of grant in favour of the Management within four weeks thereafter. The arrears of salary, if any, also shall be released simultaneously.

11. The costs directed to be paid by Respondent No.2 in case of failure to file affidavit in reply on or before 5th April, 2020 shall be paid by Respondent No.2 and not by the State Government. The State Government is permitted to deduct the said amount of Rs.15,000/- from the salary of Respondent No.2 and shall deposit the said amount within two weeks from today in this court. Upon receipt of the said amount by the State Government, the Petitioner would be at liberty to withdraw the said amount.

12. The Respondent No.1 shall inform the learned counsel for the Petitioner about the deposit of costs in compliance with the order passed by this Court today within one week from the date of said deposit. The Registry of this Court shall thereafter permit the Petitioner to withdraw the said amount.

13. Writ Petition is disposed of accordingly.
14. Rule is made absolute in the above terms. No order as to costs.
15. Parties to act upon the authenticated copy of this order.

(ABHAY AHUJA, J.)

(R.D. DHANUKA, J.)