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Date: 2021.10.22
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6897/2021

Ashwini Yogesh Shete Petitioner

Vs.

State of Maharashtra & Ors. Respondents

WRIT PETITION NO.6903/2021

Nicholas Piedade Rodrigues Petitioner

Vs.

State of Maharashtra & Ors. Respondents

WRIT PETITION NO.6901/2021

Yogesh Madhukar Shirke Petitioner

Vs.

State of Maharashtra & Ors. Respondents

WRIT PETITION NO.6897/2021

Pratik Vidyasagar Patil Petitioner

Vs.

State of Maharashtra & Ors. Respondents

Mr. Chetan G. Patil for the Petitioners
Mrs. P.J.Gavhane, AGP with Ms. K.N.Solunke, AGP, Mrs. S. S.
Bhende, AGP, Mr. N. C. Walimbe, AGP for the State

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

DATED : OCTOBER 20, 2021

P.C.

1 Mr.Patil, the learned counsel for the Petitioners, on instructions, seeks liberty to delete Respondent Nos. 4 and 5.

2 Leave to amend is granted. Amendment shall be carried out forthwith. Re-verification is dispensed with.

3 Rule.

By consent of the parties, petition is taken up for final disposal.

The learned AGP waives service for Respondent Nos.1 to 3.

4 By these petitions under Article 226 of the Constitution of India, the Petitioners impugned the show cause notices dated 08.02.2021 and order dated 22.09.2020.

5 It is not in dispute that in these four petitions, the Education Officer has already granted approval to the appointment of the Petitioners on various non teaching posts on 17.03.2019 w.e.f. 17.06.2019. After such approval was granted by the Education Officer, the Dy. Director of Education has refused to enter the name of the Petitioner in Shalarth Pranali and issued show cause notice.

6 Mr. Patil, the learned counsel for the Petitioners in this bunch of petitions, invited our attention to the judgment of this Court declared on 23.08.2021 in Writ Petition No.2003/2020 in the case of Vilas J. Londe Vs. State of Maharashtra & Ors. and tendered a copy of order dated 08.10.2021 passed by this Court in Writ Petition No.11244/2019 in the case of Sanjay Pandurang Powar Vs. State of Maharashtra and other companion matters and would submit that this Court has already held that once an approval is granted by the Education Officer to the appointment of the Petitioners on non teaching posts, the Dy. Director of Education has no jurisdiction to refuse to enter the name of the employees in Shalarth Pranali. He further submits that the Government Resolutions referred to and relied upon in the impugned orders dated 22.09.2020 in each of the petitions are not applicable to the Petitioners. He submits that the validity of the similar orders has been already dealt with by this Court in the above referred judgments and it is categorically held that none of the Government Resolutions are applicable. Even otherwise, the learned AGP for the State could not distinguish the judgment of this Court in the case of Vikas Londe (supra) and Sanjay Pawar (supra).

7 In our view, both these judgments and orders would squarely apply to the facts of the present cases. We do not propose to take a different view in the matter. The Dy. Director of Education could not have refused to enter the names of the Petitioners in Shalarth Pranali once the

Education Officer has already granted approval. The impugned order passed by the Dy. Director of Education on 22.09.2020 is contrary to the principles and law laid down by this court in the above judgment and order. The show cause notices issued by the Dy. Director of Education are also without jurisdiction.

8 In our view, neither the above referred judgment / orders are challenged nor stayed by the Hon'ble Supreme Court. It is noticed by this Court that though this Court has repeatedly taken a view that once an approval is granted by the Education Officer, the Dy. Director of Education could not have refused to enter the names of the employees in the Shalarth Pranali and could not have refused to issue Shalarth ID by passing cyclostyled orders that have been passed by the Dy. Director of Education, contrary to the principles and law laid down by this Court.

9 We hope that the learned AGP would issue appropriate directions to the Dy. Director of Education as well as the concerned officer to comply with the orders passed by this Court who shall not pass such orders, contrary to the law laid down by this Court, in future and to avoid further litigation at the cost of public exchequer and to save time of this Court.

10 We, accordingly, pass the following order.

- a. The Writ Petitions are allowed in terms of prayer clause (a).

- b. Respondent No.2 shall enter the names of the Petitioners in Shalarth Pranali and issue Shalarth ID to each of the Petitioners within 4 weeks from today.
- c. Rule is made absolute in the aforesaid terms.
- d. The Writ Petitions are disposed of accordingly.
- e. A copy of this order shall be forwarded to the office of Advocate General of the State of Maharashtra to look into the matter seriously and issue appropriate directions.
- f. Parties to act on an authenticated copy of this order.

(ABHAY AHUJA, J.)

(R.D.DHANUKA, J.)