

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

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WRIT PETITION NO.8815 OF 2021

Mrs.G.Priyanka Bhimsenrao & Anr.

.. Petitioners

Versus

State of Maharashtra & Ors.

.. Respondents

Mr.Narendra V. Bandiwadekar a/w Mr.Vinayak R. Kumbhar i/by
Mrs.Ashwini Navjyot Bandiwadekar for the petitioners.

Mr.N.C. Walimbe, AGP for the respondent nos.1 to 3-State.

**CORAM : R.D. DHANUKA AND
R.N. LADDHA, JJ.**

DATE : 17th December 2021

P.C.:-

. Rule. Mr.Walimbe, learned AGP waives service for the respondent nos.1 to 3-State. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners pray for quashing and setting aside the impugned order dated 29th September 2021 issued by the Deputy Director of Education and seeks further direction to grant permission to include the name of the petitioner no.1 in Shalarth Pranali and thereafter to issue Shalartha I.D. to the petitioner no.1.

3. The petitioner no.1 was appointed pursuant to the advertisement dated 15th April 2014 in the newspaper inviting applications for the post of Full Time Shikshan Sevak in Open Category.

The Headmaster of the Management thereafter applied for approval to the appointment of the petitioner on 16th January 2017 to the respondent no.3. On 10th February 2020, the respondent no.2 granted approval to the appointment of the petitioner no.1 as a Shikshan Sevak for 3 years.

4. The proposal in respect of the appointment of the petitioner no.1 was submitted by the Headmaster to the respondent no.3 for entering the name of the petitioner no.1 in Shalarth Pranali. The respondent no.2 pointed out certain deficiencies in the said proposal to the Management. On 29th September 2021, the respondent no.2 issued the impugned order and refused permission to include the name of the petitioner no.1 in Shalarth Pranali for the reasons recorded therein.

5. According to the impugned order, the name of the petitioner no.1 was not included in the Shalarth Pranali on the ground that on the date of the appointment, she did not have B.Sc. Degree and on other grounds. The petitioner no.1 impugned the said order on various grounds including the ground of jurisdiction and on merit.

6. Mr.Bandiwadekar, learned counsel for the petitioners invited our attention to the judgment delivered by this Court on 20th October 2021 in case of ***Nilesh Namdev Patil Vs. State of Maharashtra & Ors.*** in Writ Petition No.6905 of 2021 and other companion matters and would submit that this judgment squarely applies to the facts of this case.

7. It is not in dispute that the appointment of the petitioner to the said post was already approved by the Education Officer (Secondary) Zilla Parishad which order is in force. The proposal was made by the

petitioner no.2 to enter the name of the petitioner no.1 in the Shalarth Pranali. The Deputy Director of Education had refused to enter the name of the petitioner no.1 in the Shalarth Pranali on the ground that the petitioner did not have qualification of B.Sc. on the date of her appointment.

8. A perusal of the impugned order clearly indicates that the Deputy Director of Education has rejected the proposal of the Management to enter the name of the petitioner no.1 in the Shalarth Pranali. Though the petitioner no.1 has impugned the said order also on merit in addition to the ground of jurisdiction, we will first examine whether the Deputy Director of Education has jurisdiction to refuse to enter the name of the petitioner no.1 in the Shalarth Pranali on the ground that the appointment was not properly made by the Management for want of proper qualification.

9. A perusal of the impugned order dated 29th September 2021 clearly indicates that neither there was any show cause notice issued by the Education Officer alleging any fraud, misrepresentation or suppression on the part of the petitioners or the Management nor any such findings are rendered in the impugned order.

10. The Education Officer has already granted approval to the appointment of the petitioner no.1. Unless there was show cause notice issued by the Deputy Director of Education alleging any suppression, misrepresentation of fraud on the part of the petitioners or the Management and such findings would have been rendered in the impugned order passed by the Deputy Director of Education, the Deputy

Director of Education could not have refused to enter the name of the petitioner no.1 in the Shalarth Pranali in view of the order of approval already granted by the Education Officer. In our view, the order passed by the Deputy Director of Education is contrary to the principles laid down by this Court in case of ***Nilesh Namdev Patil (supra)***.

11. We accordingly pass the following order :-

- (i) Writ petition is allowed in terms of prayer clauses (b) & (c).
- (ii) The name of the petitioner no.1 shall be entered in the Shalarth Pranali within four weeks from today.
- (iii) Arrears payable to the petitioner no.1 shall be released within four weeks from the date of entering the name of the petitioner no.1 in the Shalarth Pranali without fail.
- (iv) We have not expressed any views on the correctness of the orders passed by the Education Officer.
- (v) Rule is made absolute in aforesaid terms.
- (vi) Parties to act on the authenticated copy of this order.

R.N. LADDHA, J.

R.D. DHANUKA, J.