

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5013 OF 2022

Dnyaneshwar Laxman Chavan,
Age :- 34 years, Occu.- Assistant Teacher,
R/o :- Chhatrapati Chowk, Nanded.
Tq. and Dist. Nanded.

... **Petitioner**

Versus

1. The State of Maharashtra,
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai -32
2. The Commissioner of Education,
Educational Commissionerate Office,
Balbharti, Senpati Bapat Marg,
Pune.
3. The Director of Education,
(Primary)
Maharashtra State,
Central Administrative Building,
Shivaji Nagar, Pune.
4. The Deputy Director of Education,
Latur Division, Latur,
5. The Education Officer (Primary),
Zilla Parishad, Nanded
Tq. and Dist. Nanded.
6. The Pratibha Niketan Education Society,
Shrinagar, Nanded, Tq. and Dist. Nanded,
Through its President/Secretary.
7. Pratibha Niketan Primary School,
Shrinagar Nanded, Tq. and Dist. Nanded,
Through its Head Master.

... **Respondents**

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Advocate for Petitioner : Mr. Shahaji B. Ghatol Patil.
AGP for Respondent Nos.1 to 4-State : Mr. A. R. Kale.
Advocate for Respondent No.5 : Mr. S. B. Pulkundwar.

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**CORAM : R. D. DHANUKA, AND
S. G. MEHARE, JJ.**

DATE : 05.05.2022

ORAL JUDGMENT (PER R. D. DHANUKA, J.) :-

1. Rule. Learned AGP waives service of notice for respondent Nos.1 to 4. Learned counsel appearing for respondent No.5 waives service. Leave to amend is granted to delete respondent Nos.6 and 7. Amendment to be carried out within one (1) week from today. Re-verification is dispensed with. Rule is made returnable forthwith and heard finally by consent of the parties.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks a writ of certiorari for quashing and setting aside the order dated 04.03.2022 passed by respondent No.4-Deputy Director of Education, Latur Division rejecting the proposal for inclusion of name of the petitioner in Shalarth Pranali and cancelling the approval

granted by the Education Officer.

3. In the earlier round of litigation, the approval to the appointment of the petitioner was rejected by the Education Officer. This Court by delivering a judgment dated 17.11.2021 in Writ Petition No.1567 of 2018 filed by the Management praying for an order and direction against the Education Officer to grant an approval to the appointment of the Assistant Teachers passed a detailed judgment and directed the Education Officer to grant an approval to the appointment of the teachers within the time prescribed. The said judgment has not been impugned by any of the respondents before the Hon'ble Supreme Court and has attained finality.

4. Pursuant to the said judgment delivered by this Court, the Education Officer granted approval to the appointment of the petitioner on 27.11.2021. The Management thereafter sent the proposal for inclusion of the name of the petitioner in Shalarth Pranali to the Deputy Director of Education.

5. The Deputy Director of Education passed an order on 04.03.2022 and refused to enter the name of the petitioner in Shalarth Pranali and has set aside the order passed by the

Education Officer granting approval on the ground that the petitioner has not passed T.E.T. examination.

6. In our view, since this Court has directed the Education Officer to grant approval after considering all the submissions of both the parties and the said approval has been granted has attained finality, the Deputy Director of Education did not have any jurisdiction to set aside the order passed by the Education Officer and to refuse to enter name of the petitioner in Shalarth Pranali.

7. Even otherwise, the Deputy Director of Education has no power to decide the merits of the order passed by the Education Officer granting approval unless the case of fraud, misrepresentation or suppression is established before the Deputy Director of Education.

8. In our view, the order passed by the Deputy Director of Education is contemptuous. The Director of Education shall warn the Deputy Director of Education not to pass such order in the teeth of the order passed by this Court. A copy of the order shall be forwarded to the Director of Education and for information and compliance.

9. We accordingly pass the following order :

ORDER

- (i) Writ Petition is allowed in terms of prayer Clauses "B" and "D". The arrears of the salary and other consequential benefits in terms of approval of the petitioner shall be paid to the petitioner within four (4) weeks from the date of the entry of the petitioner made in the Shalarth Pranali. The name of the petitioner in the Shalarth Pranali shall be entered within two (2) weeks from today without fail.
- (ii) Rule is made absolute in the aforesaid terms. No order as to costs.
- (iii) Parties to act upon the authenticated copy of this order.

(S. G. MEHARE, J.)

(R. D. DHANUKA, J.)

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vmk/-