

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

**938 WRIT PETITION NO.6236 OF 2022
WITH
CP/314/2022 IN WP/1567/2018**

**UMATAI LAXMAN GADEWAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND
OTHERS**

...
Advocate for Petitioner : Mr.Kulkarni Suresh Madhusudan
AGP for Respondents-State : Mr. A.R.Kale
...

**CORAM : RAVINDRA V. GHUGE, &
ANIL L. PANSARE, JJ.**

DATE : 23rd JUNE, 2022.

PER COURT :

1. The petitioner has putforth prayer Clauses (B) to (F),
which read as under :

(B) By issuing a writ of certiorari or any appropriate writ, order, or direction in the like nature the order dated 04.03.2022 issued by Respondent No. 3 Deputy Director of Education, Latur rejecting the approval to the petitioner's appointment as an Assistant Teacher may kindly be quashed.

(C) By issuing a writ of mandamus or any appropriate writ, order, or direction in the like nature the order dated 27.11.2021 issued by Respondent No. 4 Education Officer (Primary) Zilla Parishad, Nanded be instructed to pass appropriate order as directed by the Hon'ble High Court in Writ Petition No. 1567/2018 in letter and spirit.

(D) By issuing a writ of mandamus or any other appropriate writ, order or direction in the like nature Respondent No. 3 may kindly be directed to approve

the services of the Petitioner as a full time Assistant Teacher and grant her salaries from the date of appointment.

(E) By issuing a writ of mandamus or any other appropriate writ, order or direction in the nature Respondent No. 4 may kindly be directed to pass an order approving the services of the Petitioner as a full time Assistant Teacher without inserting any conditions and grant her salaries from the date of appointment.

(F) Pending the hearing and final disposal of this Writ Petition the operation, implementation and execution of the order dated 04.03.2022 passed by the Deputy Director of Education, Latur refusing to grant approval to the Petitioner may kindly be stayed.”

2. The colleague of the present petitioner, namely, Dnyaneshwar Laxman Chavan was before this Court, in Writ Petition No. 411 of 2021. By the judgment dated 17.11.2021, passed by the Division Bench of this Court, to which, one of us, (Ravindra V. Ghuge, J), was a party, it was held that the approval of the said petitioner would be issued by the Education Officer, within two weeks and the monetary benefits shall be calculated by the Management, within four weeks. The bills would be forwarded to the Education Officer, to be cleared, within four weeks therefrom.

3. Despite the above order, the Deputy Director of the Education, Division Latur, issued an order dated 4.3.2022, thereby rejecting the proposal for including the name of the petitioner

Dnyaneshwar Laxman Chavan in the Shalarth Pranali and the present petitioner Sau. Umatai Laxman Gadewar. This Court (Coram : R.D. Dhanuka and S.J.Mehare, JJ) delivered a judgment, on 05.05.2022 in Writ Petition No. 5013 of 2022 and came to the conclusion, in paragraph Nos. 3 to 8, which read as under :

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 paying 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.”

4. In view of the above, this Court allowed the writ petition in terms of prayer Clauses (B) & (D) and directed that the consequential benefits would be paid to the petitioner, within four weeks from the date of entry in the Shalarth Pranali. It is further ordered that the entry in the Shalarth Pranali would be carried out within two weeks.

5. In view of the above, as the order passed by the Deputy Director of Education, namely Dr.Ganpat More, is held to be illegal and his conduct is held to be contemptuous, the order dated 4.3.2022, which is a common order, has already been quashed and set aside.

6. Hence, the petition filed by the present petitioner stands

allowed, in terms of prayer Clauses (B) and (D). The name of the present petitioner Sau. Umatai Gadewar, is already been included. Her consequential monetary benefits would be paid to her within four weeks from today.

7. In so far as, the contempt petition is concerned, the learned Advocate for the petitioner submits, on instructions, that the petitioner derives no pleasure out of punishing any Government servant. He prays that respondent No. 2, Mr. Dinkar Temkar, respondent No. 3 Dr. Ganpatrao More and Dr. Savita Sidgonda Birge, at least be cautioned.

8. We have perused the record to assess the conduct of these three officers. We find that Dr. Birge, the Education Officer (Primary) had carried on putting conditions for approval granted to the present petitioner, despite the judgment of this Court dated 17.11.2021. Respondent No. 4 Dr. More is already held to have acted in a contemptuous manner, in the order 5.5.2022.

9. As such, this contempt petition is disposed off, by recording our serious displeasure, as regards the conduct of these three officers, namely, Dr. Temker, Dr. More and Dr. Birge. We are passing this order since the grievance of the petitioner has been

partly redressed.

(ANIL L. PANSARE)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

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