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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2565 OF 2022

Divesh Rajendra Shinge .. Petitioner
v/s.
The State of Maharashtra & Ors. .. Respondents

....

Mr. Prashant Bhavake, for the Petitioner.

Mr. N.C. Walimbe, AGP, for State.

....

CORAM: SUNIL B. SHUKRE &
G.A. SANAP, JJ.

DATE : 7 MARCH 2022

P.C:-

Not on board. Allowed to be taken on board by
production.

2. Heard learned Counsel for the Petitioner and learned AGP
for Respondent Nos. 1 to 5. Considering the nature of relief sought in
this petition, we find that there is no need to issue any notice to the
remaining Respondents.

3. The Petitioner has been appointed as a Junior Clerk with
effect from 9 March 2000 in Respondent No.7 School. Approval to

such appointment has been granted by Education Officer (Secondary) on 24 August 2021 for a period of two years from 9 March 2020 till 8 March 2023. It is upon payment of fixed honorarium of Rs. 2000/- per month. However, the grievance of the Petitioner is that in spite of such approval, no honorarium is being paid to the Petitioner, as his name has not been included in the Shalarth ID and now, by the impugned order, the Deputy Director of Education had even reopened the issue of grant of approval to the appointment of the Petitioner on probation for a period of three years.

4. Reopening of the issue of grant of approval to the appointment of school employee by taking recourse to the GR dated 7 November 2012, or by making any reference to the circular dated 29 March 2019, cannot be done is now the law, which is settled. (See Writ Petition No.8966 of 2021, Amol Baban Sangar vs. State of Maharashtra and Others dated 21 February 2022). This is all the more so because the appointment order is not alleged to be obtained by school employee by playing fraud or by making misleading representation of facts or by suppressing material facts. In this case, there is no allegation of fraud, misrepresentation or suppression of material facts by the Petitioner and impugned order shows that the issue is sought to be reopened because, in the opinion of the Deputy Director of Education, some irregularity was committed at the time of the appointment. The impugned order is, therefore, bad in law.

5. In view of above, the petition is allowed. The impugned order is hereby quashed and set aside. Respondent No.4 is directed to include the name of the Petitioner in Shalarth ID and release the admissible arrears of regular honorarium to the Petitioner for the period for which the approval has been granted at the earliest and preferably within four weeks from the date of the receipt of the order.

6. Writ petition is disposed of in the above terms. No costs.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)