

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.2053 OF 2022

PETITIONER : Wasimoddin Salimoddin Farooqui, Age-38
years, Occ. Service, R/o. Millat Colony,
Khamgaon, Tq. Khamgaon, Dist. Buldhana.

//VERSUS//

RESPONDENTS : 1. Deputy Director of Education, Amravati
Division, Amravati, Office at Tope Nagar,
Amravati, Tq. & Dist. Amravati.

2. Education Officer (Secondary), Zilla Parishad,
Buldhana, Office at Jaistambh Chowk,
Buldhana, Tq. & Dist. Buldhana.

3. Anjuman High School, through its Headmaster,
Anjuman Campus, Nandura Road, Khamgaon,
Tq. Khamgaon, Dist. Buldhana.

Mr. Pravin S. Patil, Advocate for the Petitioner.

Ms. S.S. Jachak, Assistant Government Pleader for Respondent Nos.1 & 2.

CORAM : A.S. CHANDURKAR AND ANIL L. PANSARE, JJ.

DATE : 20th DECEMBER, 2022.

ORAL JUDGMENT (Per: A.S. CHANDURKAR, J.)

01] **Rule.** Rule made returnable forthwith and heard the learned
counsel for the parties.

02] The challenge raised in this petition is to the order dated 04.08.2020 passed by the Deputy Director of Education, Amravati thereby refusing to include the name of the petitioner in the Shalarth Pranali.

03] The petitioner came to be appointed on the post of Senior Clerk at the respondent No.3-School which is a minority institution. After he was so appointed, a proposal was sent to the Office of the Education Officer (Secondary) seeking approval to such appointment. On 29.01.2020 the Education Officer (Secondary) approved the appointment of the petitioner on the post of Senior Clerk for a period of three years on nomination. Thereafter, the School forwarded another proposal to the Education Officer (Secondary) for including the name of the petitioner in the Shalarth Pranali. The Education Officer (Secondary) recommended the said proposal and forwarded the same to the Office of the Deputy Director of Education on 18.05.2020. However, on 04.08.2020 the Deputy Director of Education refused to include the name of the petitioner in the Shalarth Pranali on the ground that a copy of the newspaper in which the advertisement was issued prior to the petitioner's appointment was not produced, the list of candidates who had been interviewed had not been furnished, the marks secured by the candidates seeking selection had not been submitted and the Management did not furnish the list of schools run by it. It was further stated that the directions issued with regard to staff justification had not been followed. Being aggrieved by this order dated 04.08.2020, the petitioner has challenged the same in the present writ petition.

04] The learned counsel for the petitioner submitted that the Deputy Director of Education had no jurisdiction to consider various matters that were already considered by the Education Officer (Secondary) while approving the petitioner's appointment. There was no authority with the respondent No.1 to go into these aspects after the grant of approval and in that regard the learned counsel for the petitioner placed reliance on the decision in *Murlidhar s/o Datta Kayande Vs. State of Maharashtra and Others* [2022(4) Mh.L.J. 125]. Inviting attention to the judgment of this Court in Writ petition No.5740 of 2021 (*Dattatraya Appaso Patil Vs. State of Maharashtra and Others*) decided on 15.12.2021, it was submitted that it was not permissible for the Deputy Director of Education to refuse to enter the name of the petitioner in the Shalarth Pranali for said reasons. The approval having been granted after considering all relevant aspects, the name of the petitioner ought to have been included in the Shalarth Pranali. It was thus submitted that the impugned order was liable to be set aside.

05] The learned Assistant Government Pleader for respondent Nos.1 and 2 opposed the writ petition. She placed reliance on the affidavit-in-reply filed on behalf of respondent No.1 and submitted that since there were various shortcomings in the proposal, the Deputy Director of Education rightly refused to include the name of the petitioner in the Shalarth Pranali. The respondent No.1 was entitled to examine all relevant aspects and hence no interference with the impugned order was called for.

06] We have heard the learned counsel for the parties and perused the documents on record. It is undisputed that after the petitioner was appointed on the post of Senior Clerk, proposal dated 09.05.2018 was sent to the Education Officer (Secondary). The same was granted by the respondent No.2 and the appointment was approved by the order dated 29.01.2020. While granting such approval, it is for the Education Officer (Secondary) to verify as to whether all necessary compliances have been made or not. This includes complying with the procedure while undertaking recruitment. It is clear from the order dated 29.01.2020 that after being satisfied of such compliance the petitioner's appointment was approved.

07] The Division Bench in *Dattatraya Appaso Patil* (supra) has held in clear terms that once approval is granted to an appointment by the Education Officer, the Deputy Director of Education cannot refuse to enter the name of such employee in the Shalarth Pranali which is in furtherance of the order passed by the Education Officer (Secondary). Similarly in *Murlidhar Datta Kayande* (supra) it has been held that the superior authority in such cases has neither the appellate jurisdiction nor any power of review against the order of the Education Officer. When the order dated 04.08.2020 is perused, it becomes clear that matters that are required to be considered while granting approval have been gone into. The petitioner's appointment having been approved, it would not be permissible to re-open the said matter afresh. We find that the Deputy Director of Education was not justified in considering those aspects that were considered by the Education Officer

(Secondary) while granting approval. The order of approval still continues to operate. It was therefore necessary that the name of the petitioner be included in the Shalarth Pranali on that basis. In view of the decisions referred to hereinabove, we are satisfied that the impugned order dated 04.08.2020 cannot be sustained.

08] Hence for aforesaid reasons, the order dated 04.08.2020 is set aside. It is directed that the petitioner's name be included in the Shalarth Pranali pursuant to the proposal dated 18.05.2020 within a period of four weeks from receipt of copy of this order.

09] Rule is made absolute in aforesaid terms with no order as to costs.

(ANIL L. PANSARE, J.)

(A.S. CHANDURKAR, J.)

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