

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

43 WRIT PETITION NO. 7292 OF 2023

VINAYAK DHONDIBA DUDHATE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. Panpatte V. S.
AGP for Respondent Nos. 1 to 3 : Mr. S.K. Tambe

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 03 JULY 2023

PC :

Heard learned Advocate for the petitioner and the learned AGP who waives for respondent nos. 1 to 3.

2. The petitioner is impugning the order passed by the respondent no. 2, rejecting the proposal forwarded by the respondent no. 3 – Education Officer (Secondary), thereby, refusing to include the petitioner's name in the Shalarth ID, an online portal for disbursement of salary.

3. At the joint request, we have heard the matter finally and disposing it of at the admission stage.

4. The impugned communication refuses to include the petitioners name in the Shalarth Pranali on two counts. Firstly, he having not cleared the TET and secondly, seniority list was not furnished by the management.

5. There cannot be a dispute about the fact that, the petitioner was initially appointed on 17 June 2013. It was duly approved by the respondent no. 3, by the communication dated 29 October 2015, and the current proposal was forwarded by the respondent no. 3 to the respondent no. 2, merely for including his name in the Shalarth ID.

6. It appears that the respondent no. 2 has undertaken the kind of fresh scrutiny regarding the approval granted to the petitioners appointment. When apparently, the petitioners appointment was already approved by the respondent no. 3 – Education Officer (Secondary), there could not have been another enquiry. Precisely, this was the fact situation before this Court in the matter of *Amol Baban Salgar Versus The State of Maharashtra*, in Writ Petition No. 8966 of 2021 (Nagpur Bench), which was decided by the order dated 21 February 2022. This Court had observed that once there was an approval to the initial appointment, and it was merely a question of inclusion of name in the Shalarth ID, no further course was available to the respondent no. 2 – Deputy Director of Education to re-scrutinize everything, albeit, there is a circular dated 29 March 2019, issued by the Commissioner of Education holding that the Deputy Director of Education would have power to consider the issue of grant of the approval while entering the name of the school employees in Shalarth system. It was also noticed that it was an administrative circular and was not a decision by the State Government and was not having any force of law as a Government Resolution.

7. Without expressing anything on these aspects, as to whether the respondent no. 2 is entitled to undertake any scrutiny afresh regarding the initial approval granted to the petitioner, suffice for the purpose to observe that this was not the occasion and reason for the respondent no. 2 – Deputy Director of Education to enter into the realm of legality of the initial approval. If he intends to resort to that he may independently do so. However, for the time being when the petitioner's appointment has been duly approved by the Education Officer, the proposal for including his name in the portal for disbursement of salary could not have been refused.

8. Writ Petition is allowed partly, the impugned communication is quash and set aside.

9. The respondent no. 2 shall now consider the aforementioned aspects and pass a fresh order on the petitioner's proposal for including his name in the Shalarth Pranali as expeditiously as possible and in any event within a period of three (03) weeks from today.

10. It is made clear that this order would be subject to the outcome of the Special Leave to Appeal No. 830 of 2021.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE