

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

**WRIT PETITION NO.11848 OF 2023**

**SANTOSH RAMESH GAIKWAD AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS  
PRINCIPAL SECRETARY AND OTHERS**

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Advocate for the Petitioners : Shri Prakash B. Shirsath  
AGP for Respondents 1 to 3/State : Shri V.M. Kagne  
Advocate for Respondent 4 : Shri S.T. Shelke

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**CORAM : RAVINDRA V. GHUGE  
&  
Y. G. KHOBRAGADE, JJ.**

**DATE :- 26<sup>th</sup> September, 2023**

**Per Court :-**

1. The Petitioners are aggrieved that the proposal for seeking approval to their appointments has been rejected by the impugned order dated 24.03.2023.

2. We have heard the learned Advocates for the respective sides and have perused the petition paper book with their assistance.

3. The proposal has been rejected on three grounds. Firstly that, prior permission of the Department of Education was not taken before recruiting the Petitioners. Secondly that, the

advertisement before their recruitment for declaring vacancies, was not published in two largely circulated newspapers. Thirdly that, the posts were not filled in through Pavitra Portal/Pranali.

4. Insofar as the first ground is concerned, the Management of the Petitioners was before this Court in Writ Petition No.4822/2021 (*Sahyadri Bahujan Vidya Prasarak Samaj vs. The State of Maharashtra*). By the interim order dated 24.03.2022, this Court (Coram : Smt.Sadhana S. Jadhav and S.G. Dige, JJ.) granted interim relief vide paragraphs 1 and 2, which read as under:-

- “1] The petitioner institution has approached this Court time and again seeking directions to the respondent – Education Officer to grant permission to fill in the vacant aided / unaided posts in the said institution. However, it appears that the Education Officer is not taken cognizance of the representation made to them despite the orders passed by this Court.
- 2] Taking into consideration the vacancy in the said institution, the petitioner - institution may proceed to fill in the unaided posts by issuing advertisement, following proper selection process and appointing proper qualified employees. The petitioner – institution shall fill in 28 unaided posts in accordance with law in Secondary and Higher Secondary / Junior College.”

Therefore, the management was granted the permission to recruit employees.

5. With regard to the second ground, we find that the advertisement was published in Marathi daily “Sakal”, Ahmednagar edition and daily “Lokmat”, Ahmednagar edition, which are the largest circulated newspapers in the State of Maharashtra.

6. With regard to the third ground, as regards no recruitment having been made by the Management through the Pavitra Portal, this issue was before this Court at the Nagpur Bench in Writ Petition No.5245/2018 (***Shikshan Prasarak Mandal, Wadegaon and others vs. Deputy Director of Education, Amravati and others***) and a group of petitions, wherein, the judgment was delivered on 13.03.2023. It was observed in paragraph 32 as under:-

“32. *Considering the rival submissions, we are inclined to hold that the managements which have made the appointments on the strength of the interim orders of the High Court in Writ Petition 4684/2017 and Writ Petition 5059/2017 and/or in connected matters were not required to seek the permission of the appropriate authority, if the managements were party/parties individually or as members of the association which approached the High Court. We are further inclined to hold that during the period the Pavitra Portal was not functional, no fault can be found with appointments made dehors the Pavitra Portal and approvals to appointments made shall not be rejected on the ground that the*

*appointments are not made through the Pavitra Portal. The appropriate authority shall have to consider or reconsider, as the case may be, the proposals consistent with the observations supra.”*

7. In view of the above, we find the first and third grounds for rejection would not survive in the light of the interim order passed by this Court dated 24.03.2022 in ***Sahyadri Bahujan Vidya Prasarak Samaj*** (supra) and the order passed in ***Shikshan Prasarak Mandal, Wadegaon*** (supra). The second ground would also not survive since the advertisements were published in two largely circulated newspapers in Maharashtra.

8. In view of the above, **this Writ Petition is partly allowed**. The impugned order dated 24.03.2023 is quashed and set aside and the proposal is remitted to the office of Respondent No.3 to be considered afresh and on it's own merits, save and except the three grounds which have been set out in the impugned order as quashed by this Court vide this order.

9. By consent of the parties, list Writ Petition No.4822/2021 (***Sahyadri Bahujan Vidya Prasarak Samaj vs. The State of Maharashtra***), for passing orders on 09.10.2023.