

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 307 OF 2023

Jayprakash Sambhaji Jagtap ...Petitioner
Versus
The State of Maharashtra through the Secretary ...Respondents
School Education Department & Ors

Mr Vinayak Kumbhar, i/b AN Bandiwadekar, for the Petitioner.
Mr NC Walimbe, AGP, for the Respondent-State.

CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 17th February 2023

PC:-

- 1. Rule.** Rule made returnable forthwith. Petition is taken for final disposal.
- 2. It is not in dispute that the Petitioner's appointment is as a Shikshan Sevak and has been approved.**
- 3. The grievance in the Petition is that the Petitioner is not issued a Shalarnya ID so as to enable or facilitate payment of salary, wages and other benefits.**

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4. Mr Walimbe, learned AGP points out that there is an Affidavit in Reply. We have seen the Affidavit in Reply. It does not appear to us to address the question or to provide a satisfactory explanation as to why the Shalarth ID cannot be issued to a person in an approved post.

5. The only detail given in paragraph 7 is that the Petitioner is not entitled to Shalartha ID because the Petitioner belongs to the open category and there are some directions from the State Government to grant this ID to persons teaching Maths, Science and English. For the other subjects, the requirement is that the person must be from a reserved category. If that be so, we do not see how the Government can expect — and accept — services as teachers by people like the Petitioner, who are in the open category but are dealing with subjects other than Maths, Science and English, and yet claim that there is no obligation to pay them.

6. Apart from that, the Government Resolution clearly has no application because it is effective from 24th August 2018. The Petitioner's appointment is of 1st January 2013. The Government Resolution cannot apply retrospectively to the detriment of the Petitioner.

7. The Petition succeeds. Rule is made absolute in terms of prayer clause (b) and (c), which read thus:

“(b) By a suitable writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the impugned order dated 2.12.2022 passed by the Respondent No. 3, and accordingly the Respondent No. 3 may be directed to grant

permission to enter the name of the Petitioner in Shalartha Pranali as a Shikshan Sevak/ Assistant Teacher in the Respondent No. 6 school, with all consequential benefits.

(c) After the relief would be granted as per prayer clause (b) above, that by a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 4 to immediately sanction and release the grant-in-aid for payment of monthly honorarium to the Petitioner as Shikshan Sevak in the Respondent No. 6 school from 1.1.2013 to 31.12.2015, and thereafter as Assistant Teacher in pay scale w.e.f. 1.1.2016 onwards, together with all arrears."

8. We expect the entry in the Shalartha Pranali to be done and the ID to be issued within two weeks from today. All arrears and benefits are to be paid (with interest applicable, if any), within four weeks from today.

(Neela Gokhale, J)

(G. S. Patel, J)