



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 937 OF 2024

1. Shital Ambadas Gaikwad
Age: 35 years, Occu.: Service,

2. Poonam Raosaheb Kale,
Age: 31 years, Occu.: Service,

Both serving as Assistant Teachers in
Dnyandeep Mandir Primary School,
Shevgaon, Tq. Shevgaon, Dist. Ahmednagar.

... **PETITIONERS**

V/s.

1. The State of Maharashtra,
Through its Secretary,
School Education Department,
Government of Maharashtra,
Mantralaya, Mumbai – 32.

2. The Commissioner of Education,
Maharashtra State, Pune.

3. The Deputy Director of Education,
Office of Divisional Deputy
Director of Education, Pune Division,
Pune.

4. Shri Gulab Sayyed,
The then Educational Officer (Primary),
Zilla Parishad, Ahmednagar.
Presently residing at Navale Nagar,
Parijat Corner, Near Surabhi Hospital,
Gulmohar Road, Ahmednagar.

5. The Education Officer (Primary),
Zilla Parishad, Ahmednagar.

... **RESPONDENTS**

.....
Mr. Chandrakant K. Shinde, Advocate for the Petitioners
Mr. B.M. Dhanure, AGP for the Respondent-State
Mr. N.N. Bhagwat h/f. T.C. Shinde, Advocate for the Respondent No.4
Mr. A.N. Sabnis, Advocate for the Respondent No.5
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CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 19th August, 2024

ORAL JUDGMENT (Per: Ravindra V. Ghuge, J.):-

1. Rule. Rule made returnable forthwith and heard finally with the consent of the parties.

2. The Petitioners have put-forth prayer clause-B, as under:

“B. By issue of Writ of Mandamus or any other appropriate writ or order, the respondents no.2, 3 and 5 may kindly be directed to grant Shalarth ID to the petitioners and to include their names as Assistant Teachers in Shalarth Pranali and further release their monthly salary and the arrears of salary.”

3. Petitioner No.1 was appointed as a Shikshan Sevak, on 17.06.2013, for a period of three years. Petitioner No.2 was appointed as a Shikshan Sevak, on 08.09.2014, for a period of three years. Both of them belong to the S.C. category. Both of them have completed their three years as a Shikshan Sevak. Both of them have now been appointed as Assistant Teachers. The then Education Officer granted approval to the appointments of the Petitioners on 23.02.2021.

4. With the introduction of the Shalarth Pranali for the purpose of payment of salary, a Shalarth ID has to be allotted to each teacher. Hence, the Education Officer forwarded the proposal for grant of Shalarth ID to Respondent No.3. It is contended that Respondent No.3 has noticed certain deficiencies in the proposal. Vide communication dated 29.10.2021, the Respondent No.5 – Education Officer (Primary) is directed by Respondent No.3 to submit a fresh proposal. Respondent No.5 submitted the revised proposal on 15.10.2021.

5. In **Amol Baban Sagar V/s. State of Maharashtra and Ors**, this Court, at the Principal Seat, delivered a judgment dated 21.02.2022 in Writ Petition No.8966/2021, relying upon the judgment delivered at the Aurangabad Bench in **Pramod Prabhakar Pokale V/s. State of Maharashtra, 2019 (3) Bom. C.R. 273**. It was concluded that once an approval has been granted, the name of an employee has to be entered in the Shalarth system, without which the salary payment of such a teacher would not be possible. A note of caution has been struck by this Court in **Amol Baban Sagar** (supra), to the Education Authorities, more specifically the Deputy Director of Education, that he cannot review the approval, unless there is a fraud, misrepresentation or suppression, clearly made out. The Education Authority are cautioned to be

careful while dealing with the proposal for a Shalarth ID, when a teacher's approval is granted by the Education Officer.

6. In Writ Petition No.10133/2016, the Principal Seat of this Court, passed an order on 01.08.2017. It was recorded as under:

"By now, it is settled principle of law that unless the power of review is specifically or by necessary implication provided, the authority cannot review its own order. No doubt, if an order is obtained by exercising fraud, it would stand vitiated. However, it is not the case of the respondent Education Officer that the petitioners have obtained their initially orders by fraudulent means. It is further observed in the said order as under if the earlier Education Officer had granted approval to the petitioners' appointment, may be erroneously, the same cannot be made a ground to recall the same and pass contrary order, unless a case of fraud, misrepresentation or suppression is made out. Particularly, when most of the petitioners have already put in their services for 11 years, the impugned orders would amount to penalising them for no fault on their part."

7. Based on the above observations of this Court, the State Government introduced the GR dated 23.08.2017, by which, the power to review was created by amending the GR dated 06.02.2012, in the form of Clause-C, with reads as under :

क) दिलेली वैयक्तिक मान्यता रद्द करणे :-

शिक्षक / शिक्षकेतर कर्मचा-यांची दिलेली वैयक्तिक मान्यता कोणत्याही कारणाने रद्द करणे क्रमप्राप्त असल्यास त्यापूर्वी ज्या सक्षम प्राधिका-याने वैयक्तिक मान्यता दिलेली आहे अशा अधिका-याच्या लगतच्या वरिष्ठ प्राधिका-याने संबंधित कर्मचारी, संस्था यांना कारणे दाखवा नोटीस देऊन त्यांना त्यांची बाजू मांडण्याची संधी द्यावी. त्यानंतर नियमानुसार योग्य तो निर्णय घ्यावा.

8. This Court dealt with a similar issue in **Pratidnya Trimbakrao Chavan and Ors. V/s. The State of Maharashtra and Ors.** (Writ Petition No.4893/2024) and **Jyoti Sonajirao Biradar and Ors. V/s. The State of Maharashtra and Ors.** (Writ Petition No. 4901/2024) and directed the authority to grant Shalarth ID so as to enable the payment of the salary of the Petitioners through the Shalarth Pranali. The pending scrutiny before the Deputy Director of Education, in the light of a complaint filed by a stranger claiming to be a City President of '*All India Panther Sena- Vidrohacha Visphot Karnara Bandkhor*', was stayed.

9. In view of the above, since the approval granted to both the Petitioners is intact, the third Respondent will have to grant the Shalarth ID to these Petitioners, since they are presently working as Assistant Teachers and are unable to draw their salary as per the approved scale, only because the Shalarth ID is not allotted. No person can be made to work on meagre salary and work cannot be extracted from any person, without payment of salary.

10. We, therefore, direct Respondent No.3 to allot the Shalarth ID to both these Petitioners so as to commence their payment through the Shalarth Pranali, keeping in view that the institution in which both of them are working is 100% grant in aid. Shalarth ID would be allotted to the Petitioner within 60 days from today.

11. Needless to state, in the light of the GR dated 23.08.2017, which was introduced by virtue of the order passed by this Court on 01.08.2017 in Writ Petition No.10133/2016, [which was not cited before this Court in **Amol Baban Sagar** (supra)], Respondent No.3 herein is at liberty to follow the due procedure laid down in law while considering whether there is any fraud, misrepresentation or suppression while obtaining approvals to the appointments of the Petitioners. All contentions of the parties are, therefore, kept open. In the event the State has formalised any special committee for looking into such matters by relying on any particular policy, the said Authority may deal with the aspect as regards the purported fraud, misrepresentation or suppression as regards the approval granted to these Petitioners.

12. With the above directions, **this Writ Petition is partly allowed.**
Rule is made partly absolute in the above terms.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]