



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

WRIT PETITION NO. 1212 OF 2023

Kamlakar Pratap Padmar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri V. S. Panpatte, Advocate for the Petitioner.

Shri K. S. Patil, A.G.P. for the Respondent Nos. 1 to 3.

Shri Y. G. Birajdar, Advocate h/f Shri A. P. Deshmukh, Advocate
for the Respondent Nos. 4 and 5.

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

DATE : 21 JUNE, 2024.

FINAL ORDER (Per Shailesh P. Brahme, J.) :-

. Heard both the sides finally.

2. Petitioner is seeking declaration that his appointment is in accordance with law and further seeking direction for quashment of order dated 14.01.2019 passed by the respondent No. 3/Education Officer (Secondary), Zilla Parishad, Dhule rejecting the proposal of the petitioner seeking approval to his appointment. Only reason cited by the Education Officer in his letter/order dated 14.01.2019 is that the procedure as contemplated by G. R. dated 23.06.2017 has not been followed for the recruitment of the petitioner.

3. There is no objective assessment of the proposal by the Education Officer. We have already taken a view vide **order dated 10.06.2024 in Writ Petition No. 13150 of 2022** in the matter of **Shaikh Jaweria Khadarsab Vs. The State of Maharashtra and others**. Following are the observations :

“4. We are pointing out the aforementioned state of affairs in juxtaposition to the various orders passed by this Court, whereby in view of the fact that in spite of Government Resolution dated 23.06.2017, at no point of time recruitment process was undertaken through Pavitra Portal and the directions were issued to consider the individual cases for grant of approval, ignoring the fact that the recruitment was undertaken de hors the Pavitra Portal.

5. Pertinently, it is also being pointed out that by a circular dated 07.07.2023, the Ministry of School Education had instructed all the Divisional Commissioners, Chief Officers and the Commissioner of Education, inter-alia pointing out that due to pendency of several writ petitions, the recruitment process could not be undertaken through Pavitra Portal in a timely manner resulting in there being shortage of eligible teachers to impart education. Permission was granted to make appointments on contractual and temporary basis on payment of some honorarium. This is clearly indicative of the fact that even the State has been aware that the Pavitra Portal could not be put to desired use irrespective of the objective with which it was issued.

6. Additionally, the petitioner has annexed several approval orders granted to individual teachers who have been appointed after the Government Resolution dated 23.06.2017 was passed.”

4. It was expected of the Education Officer to examine the proposal considering prior permission, availability of post, advertisement and eligibility of the petitioner. The impugned order is unsustainable for want of detailed discussion and in the wake of our decision in Shaikh Jawaria (supra).

5. Therefore, we dispose of the writ petition by quashing the impugned order dated 14.01.2019 passed by the respondent No. 3/Education Officer (Secondary), Zilla Parishad, Dhule and relegate the matter back to the respondent No. 3/Education Officer for deciding afresh.

6. The respondent No. 3 shall consider the proposal afresh, by considering the relevant judgment, policy, norms of recruitment and by extending opportunity of hearing to all the parties. However, he shall not reject the proposal on the same grounds which are quoted in the impugned order.

7. The decision shall be taken as expeditiously as possible and in any case within a period of four (04) weeks from today.

[SHAILESH P. BRAHME, J.] [MANGESH S. PATIL, J.]

bsb/June 24