

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

WRIT PETITION NO. 9534 OF 2021

Ku. Samiksha D/o Gangadhar Sondare .. Petitioner

Versus

The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya, Mumbai – 32 and others .. Respondents

...
Shri V. S. Panpatte, Advocate for the Petitioner.
Shri S.R. Yadav - Lonikar, A.G.P. for the Respondent Nos. 1 to 3.
...

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

DATE : 26 SEPTEMBER 2024.

ORDER (MANGESH S. PATIL, J.) :-

Heard both the sides finally at the admission stage.

2. Petitioner is an approved teacher whose incorporation in the online payment system (*Shalarth Pranali*) is refused by the respondent No. 2 - Deputy Director of Education, Latur by order dated 23.07.2021, which is under challenge in this petition.

3. Learned counsel for the petitioner submits that after following due procedure of law petitioner was appointed in the respondent No. 6 - school on 01.01.2019 for the subject of Hindi. Her appointment was approved by the respondent No. 3 -Education Officer (Secondary), Zilla Parishad, Nanded on 29.01.2021.

Impugned order is against the law laid down by this Court in the matters of ***Amol Baban Sangar Vs. The State of Maharashtra and others*** in Writ Petition No. 8966 of 2021, ***Anilkumar Nivruttirao Biwar Vs. The State of Maharashtra and others*** in Writ Petition No. 3945 of 2017 (judgment dated 20.08.2018), ***Ramnath Dada Mote Vs. The State of Maharashtra in P. I. L. No. 197 of 2013*** (judgment dated 22.01.2014) and further judgments and orders passed by the coordinate benches.

4. Learned Assistant Government Pleader supports impugned order and submits that appointment of the petitioner is not as per Government Resolution dated 23.06.2017. Recruitment procedure was further regulated by Government Resolutions dated 20.06.2018 and 07.02.2019. Appointment of the petitioner was approved illegally by the Education Officer ignoring the policies of recruitment. He would rely on directions issued by the Division Bench in the matter of ***Pravin Bodhu Kasbe Vs. The State of Maharashtra and others*** in Writ Petition No. 3142 of 2020 vide judgment dated 03.08.2021.

5. It reveals from the record that appointment of the petitioner was approved by the respondent No. 3 - Education Officer vide order dated 29.01.2021. It has not been challenged by anybody. When the proposal of the petitioner was submitted for incorporation of his name in the *Shalarth Pranali*, it was found that appointment was not in accordance with Government Resolution dated 23.06.2017. Only on that count, the proposal was rejected without any further objective scrutiny.

6. It has been laid down by the coordinate bench in the matter of ***Amol Baban Sangar Vs. The State of Maharashtra and others*** in Writ Petition No. 8966 of 2021 (supra) that the purport of the incorporation of an employee in the *Shalarth* system is completely different. For considering such proposals, it would not be open for the officers of the Education Department to dig out the orders of approval. No power of review can vest with Deputy Director of Education to examine legality of the approval. It is further held that it is not contemplated by the Government Resolution dated 07.11.2012, which pertains to *Shalarth Pranali*, to look into the approval of the teacher.

7. We find that present case is squarely covered by the ratio laid down in the matter of ***Amol Baban Sangar Vs. The State of Maharashtra and others*** (supra). The proposal of the petitioner has not been scrutinized as per the G.R. dated 07.11.2012. The respondent No. 2 - Deputy Director of Education has travelled beyond the policy. Impugned order is unsustainable.

8. We have already taken view in the matter of ***Shaikh Jaweria Khadarsab Vs. The State of Maharashtra and others*** in Writ Petition No. 13150 of 2022 that policy of appointment through *Pavitra Portal* has not been put to desired use and objective scrutiny is required to be undertaken by the concerned Education Officer. We also propose to follow our view which is taken vide order dated 26.06.2024 in the matter of ***Arun Pandit Waghmare Vs. The State of Maharashtra and others*** in Writ Petition No. 13248 of 2023, *inter-alia* we relied upon various judgments of the coordinate benches.

9. Learned A. G. P. seeks to rely on the judgment of the Division Bench in the matter of ***Pravin Bodhu Kasbe Vs. The State of Maharashtra and others*** (supra). In that case, the proposal of the appointment of the petitioner as *Shikshan Sevak* was rejected and the petitioner was before High Court. It was not a case that the appointment of the petitioner had been approved and still his proposal for inclusion of his name in the *Shalarath* system was rejected. Therefore, the judgment is of no avail to the respondents. Similarly, judgment dated 28.08.2019 in the matter of ***Sachin Panjabrao Surwade and others Vs. State of Maharashtra and another*** in Writ Petition No. 4079 of 2019 is also distinguishable and cannot be made applicable to the case in hand.

10. Impugned order/communication dated 23.07.2021 passed by the respondent No. 2 - Deputy Director of Education, Latur is quashed and set aside and order of approval issued by the respondent No. 3 - Education Officer shall stand restored. The respondent Nos. 1 to 3 shall include name of the petitioner in *Shalarth Pranali* and disburse salary as permissible in law.

11. Writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

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