



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9327 OF 2019

Maratha Ekatmata Shikshan Sanstha,
Through President
Shri Balaji Govindrao Mirkute,
age 48 yrs, Occ. Business,
R/o Babanagar, Nanded,
Tq & Dist. Nanded.

Petitioner

Versus

1. The State Of Maharashtra
Through it's Secretary,
School Education and Sports
Department, Mantralaya, Mumbai.
2. The Director of Education,
(Primary), Maharashtra State,
Dr. Anni Besant Road, Central
Building, Pune – 1.
3. The Education Officer (Primary),
Zilla Parishad, Nanded.
4. Saraswati Primary School,
Balirampur, Tq. & Dist. Nanded
Through its Head Master.

Respondents

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Advocate for the Petitioner : Mr. V.D. Gunale
AGP for Respondents 1,2 : Mr. N.S. Tekale
Advocate for Respondents : Ms. Y.M. Kshirsagar No. 3
Dr. S.L. Pansambal advocate for R No. 4

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CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.

Reserved on : April 03, 2024

Pronounced on : May 07, 2024

FINAL ORDER :- (Per S.G. Chapalgoankar, J.)

1. The Petitioner-Management has approached this Court under Article 226 of the Constitution of India with following prayers :-

“C. By issuing writ of certiorari or any other appropriate writ, order or directions the impugned communication dated 28.6.2019 issued by the respondent no.2 thereby canceling his earlier order dated 4.6.2019 of inclusion of name of Smt Dnyaneshwari Balaji Mirkute, Assistant Teacher in the school portal file be quashed and set aside and order dated 4.6.2019 issued by the respondent no.2 be confirmed.”

2. Mr. V.D. Gunale, learned advocate appearing for the petitioner submits that petitioner society runs respondent no.4-School. There was vacancy of a post of Assistant Teacher. Therefore, petitioner made correspondence with the Education Officer-Respondent no.3 seeking permission to advertise post and fill up the vacancy. On 17.7.2014, the Education Officer granted permission to issue advertisement. In deference to the permission, an advertisement dated 18.7.2014 was published inviting applications from eligible candidates. One Dnyaneshwari Mirkute has been selected and appointed vide order dated 5.9.2014, after following the due process of law. The proposal seeking approval to her appointment was moved to respondent no.3, who accorded the same vide order dated 17.10.2014. Thereafter, name of Smt. Dnyaneshwari Mirkute was entered in the ‘Shalarth System’ vide order dated 4.6.2019. Later on, vide order dated 28.6.2019 respondent no.2 canceled earlier order dated 4.6.2019 regarding inclusion

of the name in the 'Shalarth System'. Therefore, the order dated 28.6.2019 has been impugned in this petition. Mr. Gunale, would further point out that respondent no.2 had further directed cancellation of the approval granted to the appointment of Dnyaneshwari Mirkute.

3. We have heard learned advocates appearing for respective parties.

4. It appears that, Dnyaneshwari Balaji Mirkute has filed independent Writ Petition no.5639 of 2020 before this Court assailing the order of cancellation of approval granted to her appointment by the Education Officer. We have dealt with the said writ petition and restored the approval by setting aside the order passed by respondent no.2. We have observed that there is no illegality in appointment of Dnyaneshwari Balaji Mirkute on the establishment of respondent no.4-School. We have disapproved the reasons recorded by respondent no.2 in his order in support of cancellation of the approval.

5. We find that for very same reasons as recorded in our order passed today in W.P. 5639 of 2020, the impugned order dated 28.6.2019, in this petition cancelling inclusion of name of Smt. Dnyaneshwari Balaji Mirkute in the Shalarth System cannot be sustained. In that view of the matter we proceed to pass the following order.

ORDER

- i. Writ petition is allowed.

- ii. The impugned order dated 28.6.2019 passed by the Respondent No.2 is quashed and set aside and the order dated 4.6.2019 of inclusion of name of Dnyaneshwari Balaji Mirkute – Assistant Teacher in “Shalarth Pranali” stands restored.
- iii. Writ Petition is accordingly disposed off. No costs.

(S. G. CHAPALGAONKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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