



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13212 OF 2023

1. Rani d/o Ashok Munde
2. Sachin s/o Sambhajirao Gudde

VERSUS

1. The State of Maharashtra
2. The Deputy Director of Education
3. The Education Officer (Secondary)
4. The Superintendent, Zilla Parishad,
5. Shri. Ramkrushna Maharaj Kendre Education Society
6. Shri. Pundalik Vidyalay Hadoli (Br.)

Mr. V. S. Panpattee, Advocate for the petitioners

Mr. S. R. Yadav, Addl.G.P. for the Respondent Nos. 1 to 4.

Mr. I. D. Maniyar, Advocate for the Respondent Nos. 5 and 6.

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

DATE : 21.08.2024

PER COURT :

Heard finally with the consent of the parties at the admission stage.

2. Petitioners are challenging order/communication dated 04.09.2023 passed by the respondent No. 2/Deputy Director of Education, Latur refusing to incorporate petitioners' name in the online

system for payment of salary. Impugned order is outcome of hearing conducted by the respondent No. 2 on 11.07.2023.

3. Learned counsel for the petitioners submits that petitioners belong to the N. T. category. Permanent posts were available in the respondent No. 6/school. The management issued advertisement on 11.11.2019. Petitioners were selected in pursuant to the advertisement and appointed against a post reserved for N.T. category as Shikshan Sevak. It is further submitted that after being satisfied that due procedure was followed, the respondent No. 3/Education Officer granted approval vide order dated 29.01.2021 and 21.01.2021 for three years. Thereafter respondent No. 5/management proposed to enter petitioners' name in the online system of disbursement of salary.

4. Learned counsel would submit that impugned order is against the law laid down by the Division Bench at Principal seat vide judgment dated 10.07.2017 in the matter of **Smt. Munoli Rajashri Karabasappa Vs. State of Maharashtra and others in Writ Petition No. 8587 of 2016** as well as decision of coordinate bench of this Court in the matter of **Pranitikumar Balajirao Ankade Vs. The State of Maharashtra in Writ Petition No. 10155 of 2021** vide judgment and order dated 01.03.2024.

5. Per contra, learned Additional Government Pleader Mr. Yadav supports impugned order by referring to affidavit in reply. He submits that the appointment of the petitioners is de hors the procedure contemplated by the Government Resolution dated 23.06.2017 as the appointment of the petitioners were subsequent to G. R. dated 23.06.2017. It is further submitted that the Education Officer erroneously granted approval to the appointment of the petitioners, which error has been rightly ratified by the Deputy Director of Education. He would rely upon the directions laid down by this Court in the matters of **Pravin Bodhu Kasbe Vs. The State of Maharashtra and others in Writ Petition No. 3142 of 2020** vide judgment dated 03.08.2021 and **Tanmay Suresh Karad Vs. The State of Maharashtra in Writ Petition No. 8624 of 2022** vide judgment dated 25.08.2022.

6. Having heard litigating sides, we find that issue involved in the present matter is no more *res integra*. It has been squarely covered by the judgment rendered in the matters of **Amol Baban Sangar Vs. The State of Maharashtra and others in Writ Petition No. 8966 of 2021**.

7. This Court is consistent in the view that Deputy Director of Education is not empowered to examine legality or otherwise of the approval granted to the employee by the Education Officer at the time of

considering proposal for inclusion of name in the Shalarath Pranali.

8. It is also settled position of law that policy of appointment through Pavitra Portal has not been put to desired use. We have also taken this 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.**

9. Respondent No. 2 has not rejected the proposal for any other reasons. There is nothing on record to show that petitioners or management indulged in any fraudulent activity or created false record for securing approval, it is only then it would have been open for the Deputy Director of Education to revoke approval granted to the appointment of the petitioners. We are of the considered view that the petitioners are entitled to be included in the Shalarth Pranali. The reasons assigned in the impugned order are not sustainable. We pass following order.

10. Impugned order/communication dated 04.09.2023 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 petitioners in Shalarth Pranali and disburse salary as permissible in law. Writ petition is disposed of.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

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