



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.526 OF 2023

Sumedh s/o Ashokrao Jadhav
Age: 29 years, Occu.: Asst. Teacher,
R/o. Das Ganu Nagar, Umri,
Tq. Umri, District Nanded.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Principal Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Deputy Director of Education,
Latur Region, Latur.
3. Shri. Lal Bahadur Shashtri
Shikshan Sanstha,
A/P :- Umri, Tq. Umri,
District Nanded.
Through its Secretary.
4. Shri. Shahu Maharaj Madhyamik
Va Uccha Madhyamik Vidyalyaya,
A/P – Bhokar, Tq. Bhokar,
District Nanded,
Through its Headmaster.

.. RESPONDENTS

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WITH

WRIT PETITION NO.527 OF 2022

Pankajkumar s/o Anandrao Patil
Age: 29 years, Occu.: Asst. Teacher,
R/o. Shivneri Niwas, Balapur Road,
A/P & Tq. Dharmabad, Dist. Nanded.

.. PETITIONERS

VERSUS

1. The State of Maharashtra,
Through the Principal Secretary,
School Education Department,
Mantralaya, Mumbai-32.

2. The Deputy Director of Education,
Latur Region, Latur.
3. Shri. Lal Bahadur Shashtri
Shikshan Sanstha,
A/P :- Umri, Tq. Umri,
District Nanded.
Through its Secretary.
4. Yashwant High School (Jr. College)
A/P Umri, Tq. Umri, Dist. Nanded.
Through its Headmaster.

.. RESPONDENTS

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WITH
WRIT PETITION NO.528 OF 2023

Nilofar Sher Mohammad Rangrej,
Age: 36 years, Occu.: Asst. Teacher,
R/o. Venkatesh Nagar, Near Railway
Station, A/P. Umri, Tq. Umri,
District Nanded.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Principal Secretary,
School Education Department,
Mantralaya, Mumbai-32.
2. The Deputy Director of Education,
Latur Region, Latur.
3. Shri. Lal Bahadur Shashtri
Shikshan Sanstha,
A/P :- Umri, Tq. Umri,
District Nanded.
Through its Secretary.
4. Yashwant High School (Jr. College)
A/P Umri, Tq. Umri, Dist. Nanded.
Through its Headmaster.

.. RESPONDENTS

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Mr. S. T. Shelke, Advocate for the petitioner in all the matters.
Mr. K. S. Patil, AGP for respondent Nos.1 and 2 – State in all the matters.
Mr. P. B. Shirsat, Advocate for respondent Nos.3 and 4 in Writ Petition No.526 of 2023.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 21st MARCH, 2024.

ORDER [Per Smt. Vibha Kankanwadi, J.] :-

. Leave to amend in Writ Petition No.528 of 2023 is granted.
Amendment to be carried out immediately.

2. The proposal seeking approval to the appointment of the petitioners in these petitions is rejected solely on the ground that the appointment of the petitioners is not through Pavitra Portal.

3. Petitioners came to be appointed on 02.08.2017, 09.03.2018 and 03.07.2017 respectively. However, the proposal for approvals came to be rejected on the ground that in view of Government Resolution dated 23.06.2017, the post on which the petitioners have been appointed i.e. Shikshan Sevak ought to have been filled through Pavitra Portal.

4. It has been submitted on behalf of the petitioners that on the date of appointment of the petitioners Pavitra Portal was not activated. It came to be activated in June, 2018 i.e. it became operative from 20.06.2018. The learned Advocate for the petitioner is relying on the

order passed by the Division Bench of this Court in **Lalit Suresh Shinde Vs. The State of Maharashtra and others, Writ Petition No.10270 of 2019 decided on 15.10.2019**, wherein reference was taken of the order dated 02.07.2019 in Writ Petition No.12701 of 2019, wherein learned AGP, on instructions, had submitted that the Pavitra Portal became operative on 20.06.2019.

5. The respondents have filed affidavit-in-reply and mainly relied on the Government Resolution and now, it has been tried to be said that the Pavitra Portal was active and operational from the date of initial Government Resolution dated 23.06.2017. The Government cannot change its stand. When in the earlier writ petition the learned AGP on instructions has made that statement, then a different statement cannot be allowed to be made, unless there is evidence to that effect that the portal was active. The Government is now relying upon the decision of this Court in **Pravin Bodhu Kasbe Vs. The State of Maharashtra and others, Writ Petition No.3142 of 2020 decided on 03.08.2021**, stating that in the said decision certain directions were given. It was directed that the Government Resolution dated 23.06.2017 should be scrupulously followed without any exception. Important point to be noted is that the merits in the said matter were different, but as regards the Government Resolution is concerned, certainly in direction No.1, there is an element that the Government had not followed the said resolution in the past and, therefore, it

should be followed in future. Here, the appointment of the petitioners is prior to 03.08.2021. Therefore, for the future directions, the Government cannot rely upon the said judgment.

6. Considering the fact that the Pavitra Portal was not made in operation was the statement made before this Court and the appointments of the petitioners was prior to the Portal became operative, the said reason for rejecting the proposals for approval cannot be allowed to sustain. Hence, the following order :-

ORDER

- I) The Writ Petition stands partly allowed.
- II) The impugned orders dated 10.08.2022, 23.05.2022 and 23.05.2022 respectively passed by respondent No.2 in the respective petitions, are hereby quashed and set aside.
- III) The respondent No.2 shall decide the proposals seeking approval to the appointments of the petitioners afresh, on its own merits and the same shall not be rejected on the ground on which the impugned orders were passed i.e. on the point of appointments not through Pavitra Portal.
- IV) The proposals should be decided within a period of four months from today.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm