

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION**

WRIT PETITION NO. 3558 OF 2023

Amarsinh Malhari Adate

....Petitioner

V/S

Head Master, Sangola Vidyamandir High School

And Junior College And Ors.

....Respondents

Mr Anant Vadgaonkar for the Petitioner.

Ms. Ashwini A. Purav, AGP for the Respondent Nos. 3 to 5

**CORAM : NITIN JAMDAR &
M. M. SATHAYE, JJ.**

DATED : 12 APRIL 2024

P.C.:

1. Heard learned Counsel for the parties. Perused the record.
2. The Petitioner is an employee working with the Respondent No. 1-School run by the Respondent No. 2-Management. At the outset, learned Counsel for the Petitioner states that there are no internal disputes in the Respondent-Management and it is supporting the case of the Petitioner. We proceed on the basis of said statement.
3. The Petitioner is challenging the order dated 2 December 2022 passed by the Respondent No. 4-Deputy Director of Education, Pune Division, Pune, refusing to enter the Petitioner's name in the Shalarth ID

system. Learned Counsel for the Petitioner has invited our attention to Exh. C to the petition showing approval granted to the Petitioner's appointment as Lab Assistant dated 6 July 2022. It appears that thereafter the proposal to enter the Petitioner's name in the Shalarth ID system was sent by the Respondent-School, which is refused by the impugned order.

4. Learned Counsel for the Petitioner relied upon the judgment of this Court in the matter of *Abhijit Ashok Waje vs State of Maharashtra and Ors. (Writ Petition No. 8881 of 2021 dated 21 January 2022)* and submitted that the impugned order amounts to review by the Deputy Director of the approval already granted, at the time of entering the name in the Sharlath ID. It is submitted that such exercise of review power is not permitted. He further submitted that unless the grounds of fraud, misrepresentation or suppression exist, the power of review cannot be exercised. He asserts that no notice alleging these grounds is issued to the Petitioner or Respondent Management. It is submitted that the reason given for refusal is one line reason that "the post was not available".

5. In the recent judgment passed by this Court in the matter of *Ganesh Sidhanth Khilare vs. State of Maharashtra and Others (Writ Petition No. 6613 of 2013 Order dated 20 March 2024)*, we have not only considered the judgment relied upon by the Petitioner but also other judgments directly on this subject matter and we have followed the consistent view that the Deputy Director has no powers of reviewing the approval granted all over again, at the time of entering the name of school

employee in the Shalarth ID system, unless grounds of fraud, misrepresentation or suppression exist.

6. The impugned order is indeed a cryptic order which only states that the request for entering the name in the Shalarth ID is rejected because “the post is not available”. This amounts to review in the most casual manner, which is not sustainable in view of the aforesaid settled legal position. It is also an admitted position before us that no notice alleging fraud, misrepresentation or suppression is ever given to the Petitioner. Therefore, impugned Order can not be sustained.

7. The Petition therefore succeeds. The impugned order is quashed and set aside. The Respondent No. 4 is directed to enter the Petitioner’s name in the Shalarth Id system with a period of 4 weeks from today.

8. This order will not be interpreted to mean that the power of the Respondent No. 4 to review, is taken away if the grounds of fraud, misrepresentation or suppression exist.

9. The Writ Petition is accordingly disposed of. No costs.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)