

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10523 OF 2024

Sudeep Shantappa Sadarkhed and Ors. ...Petitioners

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. Akil Kupade for the Petitioners.

Mr. Vikas Mali, AGP for Respondent/State.

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

DATE : 1 AUGUST 2024

P.C.:

. Rule. Learned AGP waives service for Respondents/State. Rule is made returnable forthwith. Taken up for final disposal by consent.

2. Heard learned counsel for the parties. Petitioners viz. Education Institute, School and its employee (Shikshan Sevak) are jointly challenging the Order dated 31 January 2022 passed by Respondent No. 3 / Deputy Director of Education, Pune Region, Pune. By said impugned Order, the request for entering the name of Petitioner No.1 (Sudeep Shantappa Sadarkhed) in Shalarth ID is rejected.

3. This is a typical case where at the stage of entering the name of school staff in *Shalarth ID* system, the approval to his appointment is considered all over again by the education authority.

4. Petitioner No.1 was appointed as Shikshan Sevak on 31 August 2021 by the Petitioner No.3/Education Institute. The proposal for approval of his appointment was sent on 7 September 2021 to the office of Respondent No.4/Education Officer (Secondary), Solapur Zilla Parishad, Solapur, who granted approval by order dated 26 October 2021. This approval order is produced on record at Exh-I. Thereafter, Petitioner Education Institute forwarded the proposal of Petitioner No.1 to include his name in Shalarth ID portal. Respondent Deputy Director rejected the proposal and directed the Petitioner Management to produce additional documents. The Petitioner Management thereafter forwarded necessary documents. Despite this, by impugned order, the Respondent Deputy Director has rejected the request of entering the name of Petitioner No.1 in Shalarth ID.

5. Perused the impugned Order. One of the reasons stated therein is based on ban under Government Resolution (GR) dated 4 May 2020. The said GR was issued due to Covid-19 Pandemic situation, which no more exists. It is admitted position that the said ban has been lifted and therefore the said reason does not survive as on today and is accordingly set aside.

6. Learned counsel for the Petitioners submitted that impugned order amounts to reviewing the order of approval, which is beyond the scope of power exercisable by the said Authority. He has relied upon the Judgment and Order dated 21 February 2022 passed by the co-ordinate Bench of this Court in the case of *Amol Baban Sangar V/s. The State of Maharashtra, through its Secretary, School Education and Sports Department and Ors.*¹ Learned AGP was at pains to support the impugned Order, but could not distinguish the present case from that of the case law relied upon.

7. We have considered the submissions and perused the record. This situation has already been considered by this court in number of cases. In a recent case of *Ganesh Sidhanath Khilare v/s. State of Maharashtra and Ors*², we have considered various Judgments of this Court arising in similar set of circumstances, including the above judgment relied upon by the Petitioners and has followed the consistent view that there is no power of review with the Education Authority to review approval at the time of entering the name in the Shalarth ID. We have also time and again clarified the exception that power of review can be exercised only in cases where factors such as fraud, misrepresentation or suppression are involved.

8. In the present case, this settled position of law is ignored by the concerned Education Authority. No notice alleging ground of fraud,

1 2022 (2) Bom C.R. 484

2 2024 SCC OnLine Bom 960

misrepresentation etc. was ever given to the Petitioners, nor such ground appears in the impugned Order.

9. In that view of the matter, petition succeeds. The impugned order dated 31 January 2022 is quashed and set aside. Respondent No.3 - Deputy Director of Education, Pune Region, Pune is directed to enter the name of Petitioner No.1 in *Shalarth ID* portal within a period of 4 weeks from today.

10. Rule is made absolute and writ petition is disposed of in the aforesaid terms. No order as to costs.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)