

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

WRIT PETITION NO. 5271 OF 2023

Anand Arvind Patil And Ors

...Petitioners

Versus

The Education Officer (Secondary),
Zilla Parishad Solapur And Ors

...Respondents

Mr. I. M. Khairdi for the Petitioner.

Mr. B. V. Samant, Addl. GP a/w. Ms Tejas J. Kapre, AGP for the
Respondent Nos. 1 to 3

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

DATED : 23 JULY 2024

P.C.:

1. Rule. Learned AGP waives service for the Respondents/State. Rule made returnable forthwith. Heard finally by consent of the parties.
2. This is once again a case where at the stage of entering the name of school staff in Shalarth ID system, the approval is considered by the education authority.
3. The Petitioner No. 1-employee working with the Petitioner No. 2-Junior College run by the Petitioner No. 3-Education Institute are jointly challenging the impugned order dated 7 July 2022 passed by the Respondent No. 2-Deputy Director of Education (Secondary), Pune

Region, Pune. By this impugned order, the proposal for entering the name of the Petitioner No. 1 in the Shalarth ID is rejected on the ground that Managements' explanation about queries such as post being available or not, why Shalarth ID not taken till 2017 etc, were unsatisfactory.

4. The Petitioner No. 1 is working as a Lab Attendent. Learned Counsel for the Petitioner has pointed out that presently the Petitioner's appointment is duly approved under order dated 30 July 2021 from 15 June 2013 in regular pay scale. Copy of this approval is produced on record at Annexure-E. At the time of entering the name of Petitioner No. 1 in Shalarth ID, review of his approval has been taken and the impugned order is passed.

5. Learned Counsel for the Petitioner has relied upon the judgment of this Court in *Abhijit Ashok Waje vs. The State of Maharashtra and others*¹ and contended that once the approval is granted, it cannot be reviewed all over again at the time of considering the request for entering the name in Shalarth ID and that this is not the case of fraud, misrepresentation etc.

6. Learned AGP was at pains to justify the impugned order, however, could not distinguish the facts of the present case from the facts of the judgment relied upon by the Petitioner.

7. The law laid down in the said judgment is consistently followed by

¹ Writ Petition No. 8881 of 2021 and other connected writ petitions, order dated 21 January 2022

us and in recent judgment of this Court in the matter of ***Ganesh Sidhanth Khilare vs. State of Maharashtra and Others***² this Court has considered series of judgments including the judgment of ***Abhijit Ashok Waje (Supra)*** and many others and has held that in situations like this where approval has already been granted, entry in Shalarth ID cannot be refused as it amounts to taking review of the approval order. The exception to this rule is reiterated by us time and again, that power of review can be exercised only if the grounds of misrepresentation, fraud or suppression etc. exist. Perusal of the impugned order shows that no such ground existed in the present matter, neither any such notice raising grounds of misrepresentation, fraud etc. was issued to the Petitioner.

8. As the above settled position of law is ignored while passing the impugned order, the same cannot be sustained.

9. In that view of the matter, the impugned order is quashed and set aside. The Respondent No. 2-Deputy Director of Education (Secondary), Pune Region, Pune is directed to enter the name of the Petitioner No. 1 in Shalarth ID within a period of four weeks from today.

10. Rule is made absolute and the Writ Petition is disposed of in above terms.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)

² (2024) SCC Online Bom 960