

JPP

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

WRIT PETITION NO. 10687 OF 2023

Nivas Bapurao Desai

... Petitioner

V/s.

The State of Maharashtra and Ors.

... Respondents

Mr. Chetan Patil with Mr. Mandar G. Bagkar for the Petitioners
Mr. V.M. Mali, AGP for the Respondents

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

DATE : 19 APRIL 2024

P.C. :-

By this Petition the Petitioner is challenging the order passed by the Respondent No.2 – Deputy Director of Education dated 13 May 2022 refusing to include the name of the Petitioner in the Shalarth ID Portal.

2. We have perused the impugned order. The impugned order has given reasons on merits of the approval granted to the Petitioner's appointment on 16 March 2022 while refusing to enter the name of the Petitioner in the Shalarth ID Portal. The effect of

the impugned order is nullifying the order granting the approval. The scope of jurisdiction to be exercised by the Deputy Director while considering the entry in the Shalarth ID Portal had come up for consideration before the Division Benches of this Court. It is a constant view taken that general power of review as regard the order of approval while making an entry in the Shalarth ID Portal is not vested on the Deputy Director. It is only in the cases of fraud, misrepresentation or collusion that the power can be extended that too is under a different Government Resolution.

3. In the impugned order there is no imputation regarding fraud, misrepresentation or collusion. Even otherwise, no notice is given to the Petitioner and the Respondent – Management including allegations of fraud, misrepresentation and collusion.

4. In the light thereof, when the Petition had come up on board on 8 April 2024 it was adjourned for the learned AGP to take instructions as to why the same course of action as taken in the earlier decisions of this Court should not be taken in the case of the Petitioner. Nothing is shown to us why it should not.

5. Accordingly, the Petition is disposed of by quashing and setting aside the order dated 13 May 2022 to the extent of the Petitioner, and the Respondent No.2 is directed to enter the name of the Petitioner in the Shalarth ID Portal and complete the necessary formalities.

6. We however make it clear that if there exist a case of fraud, misrepresentation and collusion, we have not divested the Deputy Director of the power to take necessary action as regards the review of the approval granted.

M.M. SATHAYE, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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