



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 299 OF 2021

1. Saraswati Shikshan Prasaarak Mandal,
Gadchandur through its Secretary, Namdeorao
S. Bobde, aged 57 years, Office at Savitribai Fule
Junior College, Gadchandur, Tal. Korpana,
District Gadchiroli.
2. Savitribai Fule Junior College, Gadchandur
through its Principal, Dattatraya G. Chaudhari,
aged 57 years, Gadchandur, Tal. Korpana,
District Chandrapur
3. Nitin Ashok Surpam, aged 35 years, Occ.
Service R/o Teacher's colony, Gadchandur, Tal.
Korpana, District Chandrapur

...Petitioners

// VERSUS //

1. The State of Maharashtra through its Secretary,
Department of School Education and Sports,
Mantralaya, Mumbai 400 032
2. The Director of Secondary and Higher
Secondary Education, State of Maharashtra,
Central Building, Pune 410001
3. The Deputy Director of Education, Nagpur
Division, Balbharati, Opposite Dhantoli Park,
Dhantoli, Nagpur 440012

... Respondents

Shri B.G.Kulkarni, Advocate for the petitioner.

Shri V.A.Thakare, AGP for the respondent nos. 1 to 3.

**CORAM : ANIL S. KILOR, AND
SMT. M.S.JAWALKAR, JJ.**

DATED : 20th MARCH, 2024.

ORAL JUDGMENT : [PER : ANIL S.KILOR, J.]

Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

2. This petition pertains to grant of approval to the appointment of petitioner no.3 by the petitioner no.1 Society on the ground that appointment was made without approval of the Education Department and was not made through Pavitra Portal system.

3. On the question of facts and law, the present petition is squarely covered by the common judgment dated 13th March, 2023 passed by the Coordinate Bench of this Court in Writ Petition No. 5245 of 2018 and another connected matters, wherein it is held thus:

“31. Be that as it may, in these petitions, nothing is brought to our notice by the respondents to suggest that the appointments were made after the activation of the Pavitra Portal. The submission canvassed on behalf of the concerned authority is that no advantage can be taken by the petitioners of the interim orders rendered by the High Court, unless the petitioners – managements establish membership of the association which was party to the petition/s. The extension of the submission is that if the petitioners – managements are not either parties or members of the association which approached the High Court, the appointments made without seeking the permission of the appropriate authority cannot be approved.

32. Considering the rival submissions, we are inclined to hold that the managements which have made the appointments on the strength of the interim orders of the High Court in Writ Petition 4684/2017 and Writ Petition 5059/2017 and/or in connected matters were not required to seek the permission of the appropriate authority, if the managements were party/parties individually or as members of the association which approached the High Court. We are further inclined to hold that during the period the Pavitra Portal was not functional, no

fault can be found with appointments made dehors the Pavitra Portal and approvals to appointments made shall not be rejected on the ground that the appointments are not made through the Pavitra Portal. The appropriate authority shall have to consider or reconsider, as the case may be, the proposals consistent with the observations supra.”

4. In the circumstances, we are of the opinion that the mode adopted by this Court in the above said writ petitions shall be adopted in the present matter. Accordingly, we partly allow the writ petition and issue the following directions

(i) The Education Officer or the Deputy Director of Education, as the case may be, shall consider or reconsider, the proposals seeking approval to the appointments of the petitioners – teachers on merit and in accordance with law.

(ii) The proposals shall not be rejected on the ground that the appointments are not made through Pavitra Portal system, if the appointments are made on the strength of interim orders of the High Court or during the period when the Pavitra Portal was not functional.

(iii) The proposals submitted by the managements, who were parties to Writ Petition 4684/2017 and Writ Petition 5059/2017 and/or connected matters, either individually or as members of the petitioner – association, shall not be rejected on the ground that appointments were made without seeking the permission of the appropriate authority. However, the managements, who were not parties individually, will have to establish their membership of the petitioner – association.

(iv) The petitioners shall produce copy of this judgment before the appropriate authority which shall take appropriate decision after hearing all the stakeholders including the intervenors, who may wish to be heard, within eight weeks from the production of the copy of the judgment.

5. The writ petition is disposed of in the aforestated terms.

6. The civil application, if any, stands disposed of.

[M.S.JAWALKAR, J.]

[ANIL S. KILOR, J.]