



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4030 OF 2025

Komal Balaji Awatirak

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

AND

WRIT PETITION NO. 5094 OF 2025

Pooja Balaji Wadje

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. V.S Panpatte, Advocate for petitioners

Mr. R.K. Ingole, A.G.P. for respondent nos. 1 and 2

Mr. S.B. Ghule, Advocate for respondent no.3

Mr. Ashish Deshmukh, Advocate for respondent nos. 4 and 5

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CORAM : R.G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.
DATE : 17th APRIL, 2025

PER COURT :

1. Writ Petition No. 5094 of 2025 is not on board. Upon being mentioned taken on board.

2. Issue notice to the respondents in Writ Petition No. 5094 of 2025. Learned A.G.P. waives service of notice for Respondent Nos. 1 and 2, Mr. Ghule, learned counsel, for Respondent No.3 and Mr. Deshmukh, learned counsel, for Respondent Nos. 4 and 5.

3. Both these petitions, under Article 226 of the Constitution of India, are taken up together since common question of fact and law arise therein. Vide the order impugned herein, Respondent No.2 - Deputy Director of Education, Latur and Respondent No.3 - Education Officer(Primary), Zilla Parishad, Nanded turned down the proposal for approval of appointment of the petitioners on the ground that the management did not obtain prior permission for filling up the posts and also there is surplus staff available in the other schools in the district. The another ground on which the proposal has been turned down is that the management did not make the appointments through Pavitra Portal.

4. Learned counsel for Respondent No.3 - Zilla Parishad took us through the affidavit-in-reply. Our attention has been adverted to Paragraph No.3 thereof to submit although the management has made an application dated 28th December, 2023 seeking permission to fill-up the post through advertisement, as there were surplus staff members awaiting accommodation on the vacant posts, the same is, therefore, in breach of Section 5(a) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977. It has also been submitted that the proposal was submitted belatedly. There was a dispute among the members of the management. Learned counsel, on the basis of the averments in the affidavit-in-reply, submits that the authorities concern were justified in turning down the

proposal for approval to the appointment of the petitioners. He relied on the Government Resolution dated 23rd June, 2017 relating to recruitment through Pavitra Portal.

It has however been stated on affidavit that Pavitra Portal was not in functioning at the relevant time and the said fact appears to have not traversed in the affidavit-in-reply.

5. We have considered the submissions advanced. Perused the documents on record. It is submitted by learned counsel for the contesting respondents that when recruitment of the petitioners took place, Pavitra Portal was not in operation. Respondent No.4 – management vide application dated 28th December, 2023 had sought for permission to fill-up the vacancies. Admittedly, number of vacancies advertised were within the approved staffing pattern. The record further indicates that an advertisement was issued in two dailies viz. *Punya Nagari* and *Godatiri*. There is further record to indicate that the interview committee conducted interviews of the candidates who had applied for the said posts. Both the petitioners are shown to have secured highest and second highest marks compared to the other participants. Both of them, therefore, issued with appointment orders.

6. It is an admitted fact that two of the four posts were filled-up from the surplus staff provided by the Education Department. In this peculiar fact

and circumstances of the case, we find both, the Education Officer and Deputy Director of Education (Primary), to have had no justification to turn down the proposal. The petitions are, therefore, deserve to be allowed.

7. Both the petitions thus stand allowed in terms of prayer clauses (B) and (C).

SSD (SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT, J.)