



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14551 OF 2025

1. Akash s/o Ramesh Lipne
 2. Kailash s/o Kashinath Akat
- .. Petitioners

Versus

1. The State of Maharashtra
Through its Secretary,
Education Department
Mantralaya, Mumbai-32.
 2. The Deputy Director of Education,
Aurangabad Division, Aurangabad.
 3. The Education Officere (Secondary)
Zilla Parishad, Jalna.
 4. The Superintendent of Pay Unit (Secondary),
Zilla Parishad, Jalna,
Tq. And Dist. Jalna
 5. Marathwada Sarvyoday Shikshan
Prasarak Mandal, Partur,
Tq. Partur, Dist. Jalna.
Through its President.
 6. Lal Bahadur Shasri Vidyalaya, Paradgaon,
Tq. Ghansavangi, Dist. Jalna
Through its Head Master.
 7. Lal Bahadur Shasri Vidyalaya, Partur,
Tq. Partur, Dist. Jalna,
Through its Head Master
- .. Respondents

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Mr. V. S. Panpatte, Advocate for the petitioners.
Mr. R. S. Wani, AGP for respondents/State.

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**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

DATE : 04 DECEMBER 2025

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. Heard learned Advocate Mr. V. S. Panpatte for the petitioners and learned AGP Mr. R. S. Wani for respondent Nos.1 to 4. No necessity to issue notice to respondent Nos.5 to 7.

2. The petitioners have come with the case that respondent No.5 is a registered educational institution running respondent Nos.6 and 7 schools with due permission from the State Government. Both the petitioners are having requisite qualification and they came to be appointed from open category as Junior Clerks in Secondary Schools after following due procedure. They came to be appointed on 20.11.2021 and 06.10.2021. Their services came to be approved by Education Officer on 01.04.2022 and 08.12.2021 respectively. Thereafter, the proposal was submitted by the educational institution in respect of petitioner Aakash for inclusion of his name in Shalarth I.D. and in respect of petitioner Kailash. By letter dated 08.12.2022 and 07.04.2022 their proposals were forwarded by Education Officer (Secondary) to respondent No.2. Respondent No.2 by order dated 07.07.2022 rejected both the proposals of the petitioners on the ground that the Civil Surgeon, Jalna by letter dated 01.11.2021 and 27.09.2021 have stated that their fathers i.e. namely Ramesh Lipne and Kashinath Akat were declared as unfit and on the basis of that certificate whether they could have been appointed on

compassionate ground.

3. The respondent No.5 educational institution has given its explanation by stating that in Government Resolution dated 31.12.2002 there is a provision for retired teachers or non teaching staff. In any private aided or unaided school (when the retirement is premature on the ground of psychological or physical incapacity), then such person can be appointed on compassionate appointment and again the proposal was resubmitted, which has not yet been decided and, therefore, the present petition has been filed.

4. Learned Advocate for the petitioners also submits that when the service of the petitioners was approved by the Education Officer, then respondent No.2 cannot go into the aspect as to whether the appointment was proper and legal or not.

5. Learned AGP relies on the Government Resolution dated 10.06.2020 thereby taking into consideration the decision of this Court in Writ Petition No.10133 of 2016, had taken the Government Resolution dated 23.08.2017 and, thereafter, further certain orders have been given by this Court in Writ Petition No.3142 of 2020 decided on 03.08.2021 and a comprehensive procedure has been laid down in respect of as to how the approval as well as proposal for inclusion of name in the

Shalarth Pranali can be considered. As per this procedure, respondent No.2 is then justified in seeking explanation and calling documents to assess whether the appointment was by adopting proper legal procedure or not.

6. Certainly, in view of Government Resolution dated 10.06.2022, the respondent No.2 has the authority even to consider whether the procedure that is adopted for appointment of a teacher of staff from the non teaching cadre, however, respondent No.2 erred in returning/rejecting the proposal. If we consider the impugned orders dated 07.07.2022, then it can be seen that at one place respondent No.2 was asking the explanation from the Education Officer and then at the end states that the proposal is rejected. He could have waited for the opinion or explanation from respondent No.3. Now, it appears that respondent Nos.5 to 7 have given the proposal by giving an explanation and even respondent No.3 appears to have not yet taken any further action on the same. The second point that is then required to be considered by respondent No.2 is as to whether that appointment could have been in view of Government Resolution dated 31.12.2002 i.e. whether the petitioners could have been appointed on the compassionate basis and therefore, we set aside the impugned communication dated 07.07.2022.

7. Respondent No.3 is directed to forward the proposal, that has been submitted by respondent Nos.5 to 7 on 30.11.2022, to respondent No.2 on or before 31.01.2026 and respondent No.2 to take a decision on the same on its own merits taking into consideration Government Resolutions dated 31.12.2002 and 10.06.2022 within a period of two months thereafter.

8. With these directions, the writ petition stands disposed of.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm