

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR**

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5008 OF 2023

Bharati Shikshan Prasarak Manadal,	]	
Dudhondi, Taluka: Palus, District Sangli	]	
through Its President/Secretary and others	]	Petitioners
versus		
The State of Maharashtra and others	]	Respondents

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Mr. Utkarsh Desai i/b Mr. Prashant Bhavake, for Petitioners.

Ms. T.J. Kapre, A.G.P, for Respondent-State.

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**CORAM : M.S. KARNIK &
AJIT B. KADETHANKAR, JJ.**

DATE : 16th DECEMBER, 2025.

ORAL ORDER: [PER M.S. KARNIK, J.]:

1. Heard learned Counsel for the petitioners.

2. Learned A.G.P appearing for respondents – State submitted that respondent No.5 – The Education Officer (Secondary) Zilla Parishad, Sangli was justified in rejecting the proposal as appointment of petitioner No.3 was not made through Pavitra Portal.

3. We have perused the impugned order dated 2nd December, 2021, which is at page 115 of the petition. Petitioner No.3 is M.A. B.Ed by qualification. Due to retirement of Assistant Teacher - Mr. B.A. Patil on 31st May, 2012, post of Shikshan Sevak for Marathi and History subjects became vacant. On 28th June, 2012, Headmaster of petitioner No.2 – Chatrapati Shivaji Vidyalaya (for short “School”) made an application to respondent No.5 – Education Officer (Secondary), thereby, seeking permission to issue advertisement for recruitment of said vacant posts. However, respondent No.5 – Education Officer (Secondary) did not respond to the said application. Therefore, petitioner No.1 – Bharati Shikshan Prasarak Manadal (for short “Management”) published advertisement in daily newspaper “Lokmat” for recruitment of the post of “Shikshan Sevak” at petitioner No.2 – School on 14th July, 2012. Petitioner No.3 applied and was duly selected as “Shikshan Sevak”. By appointment order dated 7th August, 2012, petitioner No.3 was appointed as Shikshan Sevak with effect from 13th August, 2012. Headmaster of petitioner No.2 - School submitted a proposal for individual approval to the aforesaid appointment of petitioner No.3 as Shikshan Sevak on 25th August, 2021. By the impugned order, the proposal was rejected on the ground that appointment of petitioner No.3 was not made through Pavitra Portal.

4. In our opinion, respondent No.5 - Education Officer (Secondary) was not justified in returning the proposal for individual approval to the appointment of the petitioner as Shikshan Sevak. According to us, the proposal should have been considered on merits. Petitioner No.3 was appointed vide appointment order dated 7th August, 2012 with effect from 13th August, 2012 on the vacant post which was created due to retirement of Assistant Teacher. The rejection is not on the ground that appropriate procedure was not followed in appointing petitioner No.3. In fact, an application was made by petitioner No.1 - Management for filling up the post, as there was no response, advertisement was issued. In such view of the matter, merely because proposal is filed belatedly by petitioner No.2 – School cannot be a reason to return the proposal only on the ground that Pavitra Portal has been brought into force from the year 2017 onwards. The proposal will have to relate back to the date on which petitioner No.3 was appointed on the vacant post. The Pavitra Portal cannot apply retrospectively.

5. The petition, therefore, must succeed as no retrospective application ought to have been given to Pavitra Portal. Accordingly, the impugned order dated 2nd December, 2021 is quashed and set aside. Petitioner No.1 - Management is directed to resubmit the proposal for approval of the appointment of petitioner No.3 as

Shikshan Sevak to respondent No.5 - The Education Officer (Secondary) within a period of four weeks from the date of communication of this order. Within a period of twelve weeks from the date of receipt of the proposal, respondent No.5 -The Education Officer (Secondary) to re-examine the proposal and decide the same on merits, in accordance with law but not on the ground mentioned in the impugned order. The deficiencies, if any, be communicated to petitioner No.1 - Management with a view to give them an opportunity to rectify/cure the same. If proposal is granted, Deputy Director of Education is directed to include the name of petitioner No.3 in Shalarth ID expeditiously.

6. The petition is disposed of in the aforesaid terms.

[AJIT B. KADETHANKAR, J.]

[M.S. KARNIK, J.]