

rajshree

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL WRIT PETITION NO.3834 OF 2022**

Vishwaraj Vijay Jadhav and Anr .. Petitioners
Versus
State of Maharashtra through the Secretary,
School Education Dept and Ors. .. Respondents

Mr.Narendra Bandiwadekar, Senior Advocate a/w Mr.Vinayak Kumbhar,
Mr.Rajendra Khaire and Mr.Aniket Phapale i/b Mr.Ashwini
Bandiwadekar for the Petitioners.

Mr.N.C. Walimbe, Addl. GP a/w Mr.S.P. Kamble, AGP for Respondent
Nos.1 to 3-State.

Mr. Vishwaraj Vijay Jadhav, Petitioner, present in person.
Mr.Bhanudas Balasaheb Pundlik, Chairman present.

**CORAM : M.S.KARNIK &
ASHWIN D. BHOBE, JJ**

DATE : 20th MARCH, 2025.

P.C.

1. Heard Mr.Narendra Bandiwadekar, learned senior counsel for
the Petitioners and Mr.N.C. Walimbe, Addl. GP for State.

2. The challenge in this Petition is to an order dated 03/03/2022
passed by the Education Officer (Secondary), Zilla Parishad, refusing to

grant approval to the appointment of Petitioner No.1 as Shikshan Sevak in the aided Secondary School of Petitioner No.2 Management, on the ground that the post was not filled in through Pavitra Portal. There is no dispute that Petitioner No.1 possesses the requisite qualification for appointment as Shikshan Sevak in the School run by Petitioner No.2.

3. The case of Petitioner No.2 is that vide communication dated 04/07/2019, 20/08/2019, 18/10/2019 and 18/11/2019, a request was made to the Education Officer (Secondary Division) to fill up the vacant post of Shikshan Sevak in Mathematics, through Pavitra Portal. Since the candidates were not sent, Petitioner No.2 issued an advertisement in the Newspaper "Agradoot" on 28/12/2019. According to the Petitioner, the said Newspaper is having a wide circulation. This averment is not controverted by the Respondents. It is then submitted by the learned AGP that as per the requirement of Rule 8 of the Maharashtra Employees of Private Schools Act, 1977 and Rules, 1981, the advertisement should be in at least one local newspaper having wide circulation in the region. Pursuant to the advertisement, Petitioner No.1 alongwith six other candidates applied and were called for interview. The order of appointment was issued in favour of Petitioner No.1 on 12/01/2020.

4. The learned AGP invited our attention to the Affidavit in Reply filed by Respondent No.3. In the said Affidavit it is denied that the four letters dated 04/07/2019, 20/08/2019, 18/10/2019 and 18/11/2019 were received by the Office. It is stated that that when the original inward register was personally checked, entries of above mentioned letters was not found. It is submitted that these four letters were not brought to the notice of the Education Officer and the said aspect was verified from one Mr.Deepak Jadhav, who was working as Inward Clerk in the Office of Education Officer. The said Mr.Deepak Jadhav informed the Education Officer that the letters were never received in the office. In Para 6 of the Affidavit in Reply it is stated that though the said four letters have inward stamp of Education Department(Secondary), Zilla Parishad, Sangli, however, it appears from the original Inward Register and Explanation given by the Inward Clerk that the four letters were not received by the Office of the Education Officer.

5. In this view of the matter, it is not possible for us to go into these disputed questions of fact to find whether the letters were received or not. Though it is the contention of the learned Senior Advocate Mr.Bandiwadekar that the letters were actually sent, we refrain from expressing any opinion on this contention. However, it is not possible for us to gloss over the fact that the Petitioner No.1 has necessary

qualifications. He was registered with the Pavitral Portal. The Respondent No.2/ Management is not yet registered with the Pavitral Portal. The Petitioner was appointed on 12/01/2020 and since then he is working as "Shikshan Sevak". Petitioner No.2 had issued an advertisement in a local newspaper of the region, which aspect is not controverted by the Respondents. Pursuant to the advertisement, seven candidates had applied who were interviewed. Petitioner No.1 came to be appointed. It is in these peculiar facts, that at this distance of time, denying relief to the Petitioner will be unjust. The School will benefit by the experience of the Petitioner. Mr.Bandiwadekar submits that henceforth the Management will strictly abide by the procedure of appointments to be made through Pavitra Portal. Statement accepted.

6. We do not find anything on record to indicate that a default was on the part of Petitioner No.1. Lapse if any was on the part of Petitioner No.2 Management. Petitioner No.1 applied for the post. The only reason which forms the basis of the impugned order is that the appointment was not made through the Pavitral portal.

7. In such circumstances, we quash the impugned order. We direct the Education Officer to grant approval to the appointment of Petitioner

No.1 as Shiksan Sevak. Learned Senior Advocate for the Petitioner on instructions submits that though the approval may be granted from the date of initial appointment, however, the Petitioner will not claim any arrears and waives his claim for arrears upto 31/03/2025. The Petitioner No.1 and Representative of Petitioner No.2 are present in the court and agree to abide by what is stated hereinabove.

8. The Petition is disposed off in the above terms. Consequently the Respondents may take appropriate steps for issuance of Shalarth ID to the Petitioner No.1 after following requisite procedure.

(ASHWIN D. BHOBE, J)

(M.S. KARNIK, J.)