

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13870 OF 2023

Vidyapeeth Society, Kolhapur & Ors. ... Petitioners

Versus

The State Of Maharashtra & Ors. ... Respondents

Mr. Prashant Bhavake for the Petitioners.

Mr. V. M. Mali, A.G.P. for the Respondents-State.

Coram : M. S. Karnik &
Sharmila U. Deshmukh, JJ.

Date : 18th September 2025

P. C. :

1. Rule. Rule made returnable forthwith and taken up for final disposal with consent of the parties.
2. The Petition impugns the Order dated 28th February, 2023 passed by the Respondent No.5 - the Education Officer (Secondary), Zilla Parishad, Kolhapur, rejecting the proposal submitted for seeking individual approval to the appointment of Petitioner No 3 as Shikshan Sevak in Petitioner No.2-School.

3. The Petitioner No.3 possesses M.A.B.Ed qualification and belongs to general category. In the year 2019-2020 due to retirement of Assistant Teacher, vacancy was created to the post of Shikshan Sevak in Petitioner No.2 - School. The Petitioner No 1 submitted applications dated 21st July, 2022 and 12th August, 2022 to the Respondent No 5 requesting to communicate the information of suitable surplus Assistant Teacher for absorption on the vacant post, for permission to carry out recruitment through Pavitra Portal and permission to issue advertisement. There was no response from the Respondent No.5.

4. The Petitioner No.1 published advertisements in two daily newspapers viz. Sakal on 6th December, 2022 and Daily Lokmat on 7th December, 2022. The Petitioner No.3 being duly qualified applied in response to the said advertisement and was selected after following due procedure. The Petitioner No.3 came to be appointed to the post of Shikshan Sevak and resolution was passed in meeting held on 30th December, 2022.

5. The appointment order was issued to the Petitioner No 3 on 2nd January, 2023. On 16th February, 2023, the Petitioner No 2 submitted proposal seeking individual approval to the Petitioner No 3's appointment, which was rejected by the impugned order dated 28th February, 2023.

6. By the impugned Order dated 28th February, 2023, the Respondent No.5 rejected the proposal submitted by the Petitioner No.2 on the ground that the appointment of Petitioner No.3 was not made through the Pavitra Portal, as per G.R.'s dated 23rd June 2017, 24th August, 2018, 7th February, 2019 and 10th June, 2022 and 20th June 2018 and no permission was obtained before publishing the advertisement.

7. Mr. Bhavake, learned Advocate appearing for the Petitioners submits that the issue is settled by the decision dated 23rd April 2025 of this Court (Aurangabad Bench) in the case of *Kalyansing Indrasing Rajput Vs. The State of Maharashtra, Through its Principal Secretary (Writ Petition No. 10205 of 2024)*. He submits that, the order of the Co-ordinate Bench records that the Pavitra Portal was not functional until June 2024 and might be even thereafter. He submits that in the light of the said factual finding the proposal could not have been rejected on the ground that the recruitment was not made through the Pavitra Portal. He would further submit that though the Petitioner Nos 1 and 2 sought permission for issuing advertisement and to communicate the information about surplus teachers, there was no response from Respondent No 5 and the proposal cannot be rejected on the said ground. He submits that the decision of *Vidharbha Youth Welfare Society and another vs State of Maharashtra (2022 (4) Mh.L.J 69)* holds that prior

permission of the Education Officer is not necessary to fill in a vacancy.

8. Mr. Mali, learned A.G.P. on the other hand would support the impugned Order and would submit that as per the government resolutions, the recruitment process has to be made only through the Pavitra Portal and not having done so the Respondent No.5 has rightly rejected the proposal submitted by the Petitioner No.3.

9. It is not disputed that the Petitioner No 3 is duly qualified for appointment to the post of Shikshan Sevak. The rejection of the proposal is on two grounds firstly that the recruitment is not through the Pavitra Portal / Pranali and secondly that no permission was taken before issuance of advertisement. The grounds for rejection cannot be sustained in view of the settled position in law. The Co-ordinate Bench in the case of *Kalyansing Indrasing Rajput Vs. The State of Maharashtra, Through its Principal Secretary (supra)* held that there was no factual dispute that from 2017 onwards until June 2024 and might be even thereafter the Pavitra Portal was not functional and considering that the rejection was only on the said ground, directed grant of approvals to the appointment of the Petitioners therein.

10. In the present case, there is no material which has been placed on record, which would dispute the factual finding of the Co-ordinate Bench that the Pavitra Portal was not functional at-least until June 2024. The

Petitioner No 3 has been appointed on 2nd January, 2023 i.e. during the period that the Pavitra Portal was non functional. The rejection of the proposal on the ground of the recruitment process has not having been routed through the Pavitra Portal, which itself was non functional is unsustainable. In so far as the second ground of failure to obtain permission before advertisement, the Petition annexes the applications sent to the Respondent No 5 seeking information about surplus teachers and for permission for publishing advertisement which did not meet with any response. Having failed to respond to the Petitioner Nos 1 and 2's communications, it is now not open for Respondent No 5 to reject the proposal on the said ground. In light of the above, the impugned Order is clearly unsustainable. Resultantly, the Petition deserves to be allowed.

11. In the light of the above, we allow the Writ Petition in terms of prayer clause (b) and (c), which reads as under :

- (b) By suitable writ, order or direction, this Hon'ble Court be pleased to quash and set aside the impugned order dated 28-2-2023 passed by Respondent No.5-Education Officer [Exhibit-H] thereby rejecting to grant proposal submitted by Petitioner No.1 and 2 seeking individual approval to the appointment of the Petitioner No.3 in the post of Shikshan Sevak at the Petitioner No.2-Secondary School and accordingly, be pleased to further direct the Respondent No.5 – Education Officer to grant individual approval to the

appointment of the Petitioner No.3 in the post of Shikshan Sevak at the Petitioner No.2-Secondary School w.e.f. 2-1-2023 under Shikshan Sevak scheme as well as permanent/regular Asst. Teacher on completion of probationary period i.e. w.e.f. 2-1-2026 within the period of four weeks or within any other period which this Hon'ble Court deems fit and accordingly release salary / honorarium payable to Petitioner No.3 with its all arrears within 8 weeks from the date of allotment of Shalarth ID or within any other period which this Hon'ble Court deems fit and proper.

- (c) By suitable writ, order or direction, this Hon'ble Court be pleased to direct the Respondent No.4-Deputy Director to allot Shalarth ID to the Petitioner No.3 and to permit the Respondent No.5-Education Officer to include the name of the Petitioner No.3 in Shalarth Pranali within two weeks from the date of granting approval to the Petitioner No.3 in the post of Shikshan Sevak or within any other period which this Hon'ble Court deems fit and proper.

12. Rule is made absolute in the above terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]

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