

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8937 OF 2023

Vaibhav Dattatray Shelke

... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

*Mr. Chetan Patil a/w. Mr. Prathamesh Magadum & Ms. Siddheshwari Chavan i/b. Mr. Mandar G. Bagkar for the Petitioner.
Mr. A.A. Naik, A.G.P. for the Respondent Nos.1 to 3-State.*

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

Date : 7th October 2025.

ORDER (Per : Sharmila U. Deshmukh, J.)

1. The Petition challenges the order dated 5th December 2022 passed by the Respondent No.3-Education Officer (Secondary), Zilla Parishad, Kolhapur, rejecting the proposal submitted by the Respondent Nos.4 & 5, seeking approval to the appointment of the Petitioner on the post of Assistant Teacher.

2. On 31st January 2021 an Assistant Teacher serving in the Respondent No.5-School retired on attaining the age of superannuation.

The Respondent No.5 approached the Respondent No.4 bringing to notice the fact of vacancy and sought permission to fill up the said post by communication dated 1st April 2021. The Respondent No.3 also also sought information about the availability of the surplus teacher so that there can be absorption of the surplus teacher on the said vacant post.

3. On 20th April 2021 the Respondent No.5 communicated with the Respondent No.3 seeking permission to fill up the vacant post. By communication dated 6th May 2021 permission was sought from the Respondent No.3 for issuing advertisement for filling up the said post. There was no response by the Respondent No.3 to the said communications. The Respondent Nos.4 & 5 were therefore constrained to issue advertisement for filling up the said post on 6th June 2021. The Petitioner, who belong to the O.B.C. category and had requisite qualification of B.Sc. B.Ed. applied in response to the said advertisement. The selection committee after due compliance appointed the Petitioner on 17th June 2021 with effect from 21st June 2021 and submitted a proposal for approval to the appointment on 25th June 2021 to the Respondent No.3, which proposal came to be rejected by the impugned order.

4. Learned counsel appearing for the Petitioner submits that despite several reminders neither surplus teacher was sent nor permission was

given for issuance of advertisement and as the post could not be kept vacant considering the interest of the students, the Petitioner came to be appointed. He submits that only reason why the approval has been rejected is that the recruitment process was not carried out through Pavitra Portal. He submits that it is settled position that the Pavitra Portal was non functional till at-least June 2024 and the appointment of the Petitioner was during the period when the Pavitra Portal was non functional.

5. Learned A.G.P would oppose the said Petition.

6. We have perused the material on record and find that despite seeking information about the surplus teacher for absorption on the said post and for permission of issuance of the advertisement, from 1st April 2021 till 6th May 2021, there was absolutely no response by the Respondent No.3.

7. Having failed to respond to the communications by the Respondent No.5, it is unacceptable that the approval of the Petitioner be rejected on the ground that the recruitment process was not carried out through the Pavitra Portal. Perusal of the communication dated 20th April 2021 indicates that the Respondent No.5 has specifically asked for permission for recruitment to the vacant post through the Pavitra Portal, to which there was no response by the Respondent No.3.

8. Apart from the said fact, it has been held by 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, decision dated 23rd April 2025)* that the Pavitra Portal was non functional till at-least June 2024. The appointment of the Petitioner was on 17th June 2021 with effect from 21st June 2021, which was during the period that the Pavitra Portal was non functional. The proposal could not be rejected by the Respondent No.3 on the ground of the recruitment process not being carried out through the Pavitra Portal, which was itself non functional.

9. The impugned order does not reject the proposal on the ground that the Petitioner was not duly qualified for being appointed to the said post and the solitary reason is the failure to carryout the recruitment through Pavitra Portal. In the light of the above, the impugned order dated 5th December 2022 is clearly unsustainable and is hereby quashed and set-aside.

10. The Respondent No.3 is directed to grant approval to the appointment of the Petitioner on the post of Shikshan Sevak in Respondent No.5-School with effect from 21st June 2021 with all consequential benefits within a period of six weeks from today.

11. The Respondent No.2 is directed to enter the name of the

Petitioner in Shalarth Pranali and issue Shalarth I.D. to the Petitioner and release the grant-in-aid towards payment of monthly salary / honorarium to the Petitioner since the date of his appointment with consequential benefits within a period of eight weeks from the date of grant of approval to the appointment of the Petitioner.

12. The Petition is allowed in the above terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]

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