

Nikita

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7553 OF 2022

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Isaq Mahiboob Shaikh and Anr.

...Petitioners

versus

The State of Maharashtra and Ors.

...Respondents

Mr. Sagar Mane i/b Ms. Ashwini Bandiwadekar for the Petitioners.
Ms. T. J. Kapre, AGP for the 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.
2. The petition challenges the order dated 4th May, 2022 passed by the Respondent No.2- Education Officer (Secondary) Zilla Parishad Solapur, rejecting the approval for the Petitioner's appointment to the post of Shikshan Sevak.
3. The Petitioner No.1 belongs to the EWS Category and possesses M.Sc. B.Ed. qualification. On 31st May, 2021, the Headmaster of the school being run by the Petitioner No.2, retired due to superannuation and the said vacancy was filled by promoting the senior Teacher. On

the same day, one another teacher retired from the service and therefore two vacancies became available in the said School for the subjects of mathematics and science.

4. By communication dated 17th August, 2021, the Headmaster of the School requested the Respondent No.2 to send surplus teacher in view of the vacancies and to open the Pavitra Portal to enable uploading of the information of aforesaid two vacancies. There was no response to the said communication. There was reminder sent on 24th November, 2021. By the communication dated 11th January, 2022, the Respondent No.2 informed the Headmaster that as and when information is received regarding the Pavitra Portal, the same would be communicated and alternate arrangement should be made at the level of the School.

5. In view thereof, the Management published an advertisement on 11th September, 2021 for two posts in reserved category. As no candidate belonging to the reserved category was present, again advertisement was published on 18th September, 2021 for two posts in OBC and EWS Categories. The Petitioner No.1 being duly qualified, applied in response to the said post, and came to be appointed w.e.f. 1st October, 2021. On 12th April, 2022, the Headmaster submitted a proposal to Respondent No.2 for approval to the said appointment which came to be rejected by the impugned order dated 4th May, 2022.

6. Learned Counsel appearing for the Petitioners submits that it

was the Respondent No.2's own communication that the Pavitra Portal was not operational and that alternate arrangements are required to be made at the level of the Management and that being so the appointment of the Petitioner could not be rejected on the ground of the appointment not being made through Pavitra Portal. Drawing support from the decision of the Hon'ble Division Bench of this Court (Aurangabad Bench) in the case of **Kalyansing Indrasing Rajput Vs. The State of Maharashtra, Through its Principal Secretary** passed on 23rd April, 2025 in Writ Petition No.10205 of 2024, he submits that in that case, by considering the factual scenario of the Pavitra Portal not being in operation, this Court had directed the approval to be granted to the Petitioner which is also required to be followed in the present case.

7. *Per contra*, Ms. Kapre, learned AGP would support the impugned order and submit that by the Government Resolution of 23rd June, 2017, as the appointment was required to be done through the Pavitra Portal in order to ensure the transparency, the proposal has been rightly rejected.

8. The issue involved in the present case is squarely covered by the decision of this Court in the case of **Kalyansing Indrasing Rajput Vs. State of Maharashtra** (supra). The Co-ordinate Bench came to a factual finding that from 2017 onwards till June 2024 and might be even thereafter, the Pavitra Portal was not functioning and considering that

the rejection was only on the said ground, had directed grant of approval to the appointment of the Petitioners therein. Apart from the issue being settled by the Co-ordinate Bench, Respondent No.2 had itself communicated to the Management that the Pavitra Portal was not functioning by its communication dated 11th January, 2022 and had permitted the Management to make arrangement at its own level. That being the factual scenario, it was no longer open for the Respondent No.2 to thereafter reject the proposal on the ground that the appointment was not made through the Pavitra Portal.

9. Learned Counsel for the Petitioner has also rightly pointed out that the Petitioner No.2 is Minority Education Institution and the recruitment procedure through Pavitra Portal is even otherwise not applicable to the Petitioner No.2. The impugned order is, therefore, unsustainable and is required to be quashed and set aside.

10. In the present case, an Interim Application was filed by the Management seeking to intervene which was subsequently withdrawn. However, the Education Officer is directed to verify whether the proposal was sent by the Management before granting approval. In the event, the proposal was sent by the Management, the Respondent No.2 is directed to grant approval to the appointment of Petitioner No.2 as Shikshan Sevak with effect from 1st October, 2021.

11. It needs to be noted that the Petitioner came to be appointed

during the period of ban which was imposed by the Government Resolution dated 4th May, 2020. The ban came to be lifted only on 1st November, 2022. The ban was imposed on the recruitment process during the Covid-19 Pandemic in order to ensure that there is no strain on the State's financial resources during the period of Covid-19 Pandemic. The Petitioner's appointment having been made during the period of ban, the petitioner/Management will not be entitled to claim grant in aid in respect of the Petitioner salary and other monetary benefits from the date of appointment i.e from 30th September, 2021 till 1st November, 2022. After the approval is granted, the Respondent No.3 is directed to enter the name of Petitioner No.1 in the Shalārtha Pranali and to allot him Shalārth I.D.

12. Rule is made absolute in above terms.

[SHARMILA U. DESHMUKH, J.]

[M.S. KARNIK, J.]