

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11181 OF 2025

Lavhaji Vasant Jagtap] ... Petitioner

Versus

The State Of Maharashtra & Ors.] ... Respondents

*Mr. Satyajeet A. Rajeshirke (Through V.C.) a/w. Mr. Shubham Vasekar i/b.
Mr. Prabhakar M. Jadhav for the Petitioner.
Mr. S.B. Kalel, A.G.P. for the Respondent Nos.1 & 3-State.
Mr. Shekhar Mane for Respondent Nos.4 & 5.*

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 challenges the Order dated 21st January 2021 passed by the Respondent No.3 – Education Officer (Secondary School), Zilla Parishad, Sangli, rejecting the proposal for appointment of the Petitioner as Shikshan Sevak.
- 3.** The Petitioner possesses B.Sc. B.Ed. qualification and had passed

TAIT in 2017 and is qualified for appointment to the post of Shikshan Sevak. On 31st May 2021, the Respondent Nos.4 & 5 addressed a communication to the Respondent No.3 – Educational Officer pointing out that there was a vacancy created in the Respondent No.5-School due to superannuation of three teachers and requested for sending surplus teachers or to permit the Respondent Nos.4 & 5 to publish advertisement for filling in the vacant posts. There was no response from the Respondent No.3. Consequently, the Respondent No.4 was constrained to issue an advertisement in the newspaper on 14th June 2021 inviting applications for the post of full time Shikshan Sevak. The Petitioner being qualified for appointment to the said post applied in response to the said advertisement, which was published in the newspaper Tarun Bharat. The Petitioner came to be duly appointed as a Shikshan Sevak with effect from 1st July 2021 on the post of full time teacher for the subject of Mathematics.

4. On 5th January 2023, the Respondent No.4 submitted proposal of the Petitioner to the Respondent No.3 seeking approval to the appointment of the Petitioner. By communication dated 8th February 2023 certain deficiencies were pointed out and the proposal came to be rejected on the ground of the said deficiencies. On 27th September 2023, the Respondent No.4 complied with the deficiencies and re-submitted the proposal of the Petitioner to the Respondent No.3. On 19th October 2023, the Respondent

No.3 rejected the Petitioner's proposal for approval. The Petitioner challenged the rejection Order dated 19th October 2023 by filing Writ Petition No. 10748 of 2024, which set-aside the rejection Order dated 8th February 2023 and 19th October 2023 and directed the Respondent No.3 to decide the proposal within a period of eight weeks by considering the explanation given by the Educational Institute. Vide impugned Order dated 21st January 2025 the proposal came to be rejected by the Respondent No.3.

5. Learned counsel appearing for the Petitioner submits that the proposal came to be rejected on the ground that no prior permission was taken for issuance of advertisement and unless the surplus teachers were absorbed, there could be no fresh appointment. He submits that the other ground on which the approval was rejected was that the appointment was not made through the Pavitra Portal, as provided by the Government Resolution (G.R.) on 23rd June 2017 and that the roster was not verified by the Backward Commission Cell. He submits that in so far as the issue of Pavitra Portal is concerned, the same 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 would further submit that, despite communication dated 4th May 2021 pointing out vacancy

which has been created and requesting for sending of surplus teachers for absorption or in the alternative for permission to issue advertisement, there was no response by the Respondent No.3. He would further submit that the Backward Commission has verified the roster of Respondent No.5-School and points out to page 168 of the Petition.

6. *Per contra* learned A.G.P. would support the impugned Order and would submit that the proposal has been rightly rejected for the reasons which are stated in the impugned Order. He submits that it was necessary for the Management to take prior permission before the issuance of advertisement and unless the surplus teachers were absorbed, there could not be any fresh appointment. He would further submit that it was the mandate of the Government Resolution dated 23rd June 2017 that the appointments are required to be made through the Pavitra Portal, which has been done in the present case. He would submit that the impugned Order notes that the roster has not been verified from the Backward Commission, which is now sought to be cured by placing verification by the Backward Commission on record.

7. In so far as the rejection on the ground of Pavitra Portal is concerned the issue is no longer *res-integra* and has been settled by the Division Bench of this Court in the case of *Kalyansing Indrasing Rajput Vs. The State of Maharashtra, Through its Principal Secretary* (supra). The Co-

ordinate Bench has arrived at a factual finding that from 2017 onwards until June 2024 at least, the Pavitra Portal was non functional. Considering the factual finding, which has not been disputed in the present case, the approval to the Petitioner's proposal could not have been rejected on the said ground, as the Petitioner was appointed with effect from 1st July 2021 i.e. during the period that the Pavitra Portal was non functional.

8. The Respondent No.3 has rejected the proposal on the ground that the prior permission was not taken before issuance of the advertisement. To the Petition is annexed the communication dated 4th May 2021 addressed by the Respondent-Management to the Respondent No.3 pointing out the vacancy which has been created in the Respondent No.5-School and seeking surplus teachers to be sent for absorption and in the event the same are not available for permission for issuance of advertisement. It is by reason of inaction on the part of the Respondent No.3 to the said communication that the Respondent-Management was constrained to issue an advertisement for filling up the said post. Having failed to send the surplus teachers for absorption, despite the communication being addressed on 31st May 2021, it is now no longer open for the Respondent No.3 to reject the proposal on the ground that the prior permission for issuance of advertisement was not taken.

9. We have before us the communication dated 3rd April 2019 issued by

Backward Commission verifying the roster as well as the verification of roster on 13th May 2025. In view of the material on record, the said ground does not survive for consideration. In event, the document was not made available along with the proposal, it was open for the Respondent No.3 to call upon the Management to submit the document, however for non submission of the said document, the proposal could not have been rejected.

10. We find that the reasons set out in the impugned Order for rejecting the appointment of the Petitioner to be unsustainable. Resultantly, the Petition deserves to be allowed and is hereby allowed. The impugned Order dated 21st January 2021 is hereby quashed and set-aside. The Respondent No.3 is directed to grant the approval to the appointment of the Petitioner as Shikshan Sevak with effect from 1st July 2021. The Respondent No.3 is further directed to include the name of the Petitioner in Shalarth I.D. and make payment of salary.

11. It needs to be noted that vide G.R. dated 4th May 2020, there was ban on recruitment which was fully lifted on 31st October 2022. The ban was imposed during Covid pandemic in order to ensure that the financial resources of the State Government are not strained by new recruitment. The appointment of Petitioner is during the period of ban upon recruitment. Even though approval is granted to appointment of

Petitioner, the State Exchequer cannot be burdened with the liability of payment of salary during the period of ban. Consequently, the Petitioner will be entitled to salary and other monetary benefits from State Government with effect from 1st November 2022. It will be the obligation of Management to make the payment of salary from date of appointment i.e. 1st July 2021 till 1st November 2022.

12. The Writ Petition is allowed.

13. Rule is made absolute in the above terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]

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