

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12195 OF 2025

- | | | | |
|----|--|---|-----------------|
| 1. | Saniya Shahrukh Shaikh |] | |
| | Aged 31 yrs., Occ. Service, |] | |
| | R/o. Building No.1, Room No.8, |] | |
| | Maniratna Aangan Society, |] | |
| | Manjiri Phata, Near Annasaheb Magar |] | |
| | Collge, Hadapsar, Pune 411 028. |] | |
| 2. | National Education & Social Trust, Solapur |] | |
| | Having Office at 249, Muslim Paccha Peth, |] | |
| | Solapur – 413 005. |] | |
| 3. | National Urdu High School, Marjewadi, |] | |
| | Having Office at Siddheshwar Nagar, |] | |
| | Part-4, Marjewadi, Solapur – 413 005. |] | |
| | Through its Head Master. |] | ... Petitioners |

Versus

- | | | | |
|----|-----------------------------------|---|-----------------|
| 1. | The State of Maharashtra |] | |
| | Through the Secretary, |] | |
| | School Education Department, |] | |
| | Mantralaya, Mumbai – 400 032. |] | |
| 2. | The Deputy Director of Education |] | |
| | Pune Region, Pune. |] | |
| 3. | The Education Officer (Secondary) |] | |
| | Zilla Prishad, Solapur. |] | |
| 4. | The Superintendent (Secondary) |] | |
| | Pay and Provident Fund Unit Squad |] | |
| | (Education Department), |] | |
| | District Solapur. |] | ... Respondents |

Mr. Vinayak Kumbhar (Through V.C.) a/w. Mr. Rushikesh Jagdale for the Petitioners.

Ms. T.J. Kapre, A.G.P. for the Respondents-State.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 21st November 2025.

JUDGMENT (Per : Ajit B. Kadethankar, J.)

1. Heard learned counsels for the parties at length. The Petitioners seek directions to the Respondents Authorities to include Petitioner No.1's name in the Shalarth Pranali and to grant her Shalarth Identity. Petitioners also submit that once the approval was granted by the Education Officer (Secondary) Zilla Parishad, it was not open for the Deputy Director of Education to question the approval while case was put up before him to grant Shalarth identity. Considering the nature of relief sought in the matter, we have heard the parties for final disposal of the Writ Petition.

2. Rule. Rule returnable forthwith. For the sake of convenience, the parties are referred to their factual status.

3. **Subject-matter:** Petitioner No.1's appointment as Shikshan Sevak on 100% granted post is approved by the competent authority i.e. the Education Officer (Secondary) of Zilla Parishad Solapur.

However, while proposal was submitted by the Education Officer to the Deputy Director of Education for grant of Shalarth Identity to the Petitioner No.1, the Deputy Director of Education questioned the approval

itself granted by the Education Officer (Secondary), Zilla Parishad. Hence the Petitioner has filed present Writ Petition.

4. Facts in brief:

4.1 The Petitioners submit that consequent to the superannuation of one Assistant Teacher, namely Sou. Karjagi Jakiya Fatima Rahmatullah on 31st July 2022, the Petitioner No. 2/School Management published an advertisement in the Daily Divya Marathi, Solapur edition on 29th July 2022 inviting applications from suitable candidates to fill up the subject-matter post.

4.2 In all 16 candidates underwent the selection process conducted by the School Management, wherein the Petitioner No. 1 succeeded to crack the same. Accordingly, the School Management vide its unanimous resolution dated 29th July 2022 resolved to appoint the Petitioner No.1 on the 100% aided post of Shikshan Sevak for a period of 1st August 2022 to 31st July 2025.

4.3 Consequent to the appointment Petitioner No.1 on the subject-matter post, the School Management submitted a proposal to the Respondent No.3-Education Officer for approval to the said appointment.

4.4 The Respondent No.3-Education Officer found the proposal to be unambiguous and flawless. As such, the Respondent No.3-Education Officer accorded approval to the Petitioner No.1's services as Shikshan Sevak vide order dated 19th September 2022.

4.5 On 24th February 2023, the School Management submitted proposal to the Respondent No. 3-Education Officer to forward the same to the

Respondent No.2– Deputy Director for inclusion of Petitioner No.1’s name in the Shalarth Pranali and to grant Shalarth Identity to Petitioner No.1.

4.6 Consequently, the Respondent No.3-Education Officer forwarded the proposal to the Respondent No.2-Deputy Director on 6th March 2023.

4.7 On 22nd November 2023, the Respondent No.2-Deputy Director however rejected the proposal by recording four grounds which read as follows:-

- (i) No proof to show vacancy for appointment of Petitioner No.1,
- (ii) Staff approval for 2022-23 not attached with the proposal,
- (iii) Approval was in contravention of G.R. dated 4th May 2020 that had imposed ban on recruitment,
- (iv) The proposal for Shalarth I.D. was filed 06 months after the grant of approval.

4.8 On 28th March 2024 the Respondent No.3-Education Officer called upon the School Management to re-submit the proposal removing the deficiencies.

4.9 The School Management vide its covering letter dated 25th April 2024, resubmitted the proposal to the Respondent No.3-Education Officer for its submission to the Respondent No.2-Deputy Director.

4.10 The School Management submitted its explanation to the deficiencies as follows:-

- (i) The subject-matter post had turned vacant due to superannuation of earlier employee, and the vacancy report was submitted.

- (ii) Staff approval was submitted.
- (iii) The ban of 2020 was not applicable to the School Management as the same is a Minority Institution nor the provision to absorb surplus employees can be forced on the Minority Institutions.
- (iv) Delay cannot be a ground to decline Shalarth Identity once the approval is granted by the Education Officer (Secondary), Zilla Parishad.

4.11 To the surprise, the Respondent No.2-Deputy Director again raised two queries thereby calling upon the Petitioners to show how the ban of 2020 was not applicable to the Minority Institution and that, as per record the 08 sanctioned posts were already filled in leaving no vacant post for the Petitioner No.1.

4.12 Vide letter dated 22nd July 2025, the School Management again filed response to the Respondent No.2-Deputy Director thereby explaining each query. It was submitted that the Government Resolution (G.R.) of 2020 itself shows that the ban is not applicable to the School Management, being a minority institute. The Petitioners also relied upon the law expounded by this Court in various judgments. It was also submitted that as the Petitioner No.1 was already appointed in the place of the retired employee in the year 2022, 08 posts were seen as filled in the staff approval 2022-23. That, on the date of Petitioner No.1's appointment there was vacancy on which she was appointed.

4.13 Contending the Respondent No.2-Deputy Director has raised unnecessary and frivolous grounds to delay grant of Shalarth identity to the

Petitioner No.1, the Petitioners filed present Writ Petition under apprehension that the Respondent No.2-Deputy Director may again raise the same queries, particularly in the light of the fact that the said authority has rejected the proposal earlier observing that the approval itself was wrong.

5. Petitioner's arguments: -

5.1 Mr. Kumbhar, learned counsel for the Petitioners submits that each query raised by the Respondent No.2-Deputy Director is clearly solved by the Petitioners.

5.2 Mr. Kumbhar would further submit that the queries raised by the Respondent No.2-Deputy Director seem to be endless and introduces new one each time. He would submit that once the approval is granted by the Respondent No.3-Education Officer, what remains for the Respondent No.2-Deputy Director is only the ministerial job to include the name in the Shalarth Pranali.

As such, the Petitioners pray to allow the Writ Petition as is prayed.

6. Respondents' argument: -

6.1 Learned Asst. Govt. Pleader Ms. T.J. Kapre although fairly agrees that the Respondent No.3-Education Officer has granted approval, but yet supports the impugned letter dated 2nd June 2025 issued by the Respondent No.2-Deputy Director of Education whereby clarification and explanation is sought from the Petitioners.

6.2 Ms. Kapre would submit that it may not be held that the Respondent No.2-Deputy Director is unnecessarily causing delay in granting Shalarth I.D.

to the Petitioner No.1, but he is satisfying himself on the queries.

7. Discussion & consideration: -

7.1 The record speaks that the School Management has followed the procedure while appointing the Petitioner No.1 on the subject-matter post.

7.2 Consequent to Petitioner No.1's appointment, the Respondent No.3-Education Officer granted approval to the appointment of the Petitioner No.1.

7.3 It depicts from the record produced before us that vide order dated 22nd November 2023, the Respondent No.2 has called upon the Petitioners to clarify certain irregularities and some queries. The Petitioner Nos.2 & 3 filed their explanation vide letter dated 27th December 2024. It is in response to the explanation dated 27th December 2024 the Respondent No.2 has issued the letter dated 2nd June 2025. It is mentioned in the letter that the Petitioner No.2 did not produce on record the Government Resolution which mentioned that the Petitioner No.2-School Management being a Minority Institution and the bar of appointment was not applicable to them. It is also mentioned in the said letter that as per the record 08 posts of Assistant Teacher were sanctioned for the school and 08 posts were already filled in. It seems that the Respondent No.2-Deputy Director was under impression that there was no vacancy for which the Petitioner No.1 could have been appointed.

7.4 We find, If there were 08 posts sanctioned for the post of Assistant Teacher and as the post became vacant due to superannuation of the earlier

Assistant Teacher namely, Sou. Karjagi Jakiya Fatima Rahmatullah, obviously the said post became vacant on which the Petitioner No.1 is accommodated in the year 2022 itself.

As such, the Petitioners seem to be justified in saying that it is not the case that the Petitioner No.1 is accommodated / appointed on any additional post, other than the 08 sanctioned posts. Obviously for 2022-23, there would reveal no vacancy. This being position post Petitioner No.1's appointment, the Respondent No.2-Deputy Director's query seems to be misconceived.

7.5 Its not disputed that the School Management in the case in hand is a Minority Institution. True that there was ban vide G.R. dated 4th May 2020 on the new appointments. However, its trite law that such bans are not applicable to the minority institutions. Beneficial reference can be made to the view expressed by this Court (Principal Seat) in the case of ***Ms.Tehasin Shabbir Ahamad Inamdar Vs. State of Maharashtra & Ors., in W.P. No. 12388 of 2022, decided on 26th February 2025.*** Learned Division Bench of this Court has referred to the observations made by the Ho'ble Supreme Court, and has held that the hiring bans and reservations won't be applicable to the Minority Institutions (emph.).

7.6 As regards to the ban of appointments imposed in the G.R. dated 4th May 2020 / 5th May 2020, this Court (Aurangabad Bench) in the case of ***Writ Petition No. 3755 of 2023 in Ekta Education Society & Ors. Vs. The State of Maharashtra & Anr., decided on 12th March 2024,*** has observed at para No.10 as follows :-

"10. As regards the second ground is concerned, it is stated that no permission was taken prior to the appointment or the issuing advertisement for the recruitment. Meaning thereby, it is accepted that there is no problem as regards the advertisement is concerned. Certainly as per the decision in Kolawana Gram Vikas Kendra (supra) it is held that it would be perfectly alright for a minority institution to select the candidates without any interference from the Government. It is then observed that No Objection Certificate should be insisted to verify whether there is vacancy of a Teacher etc. It appears that there is another Government Resolution dated 13.07.2016 which had laid down the procedure of obtaining prior permission of the Government. The said Government Resolution was the subject matter in Shital Kumar Patil (supra), but in that case the appointment of the petitioners were prior to the Government Resolution dated 13.07.2016 and, therefore, it was held that it is not applicable. In this case it is stated that the advertisement was made on 27.12.2022 and the impugned order dated 13.03.2023 makes a mention that by communication dated 09.01.2023 the permission to advertise for the posts has been rejected. Perusal of the said letter dated 09.01.2023 would show that the said permission came to be rejected on the ground that by Government Resolution dated 05.05.2020 there was ban on the recruitment. When this Court has time and again held that the minority institutions have right to appoint Teachers and non-teaching staff as per its choice, the rejection appears to be misconceived. The reliance by the petitioners on the decision in Parbhani Education Society (supra), Canossa (supra) is reiterated. That could not have been a reason to reject the proposal."

7.7 Thus, the query raised / the objection recorded by the Respondent No.2-Deputy Director that Petitioner No.1's appointment suffers ban imposed vide Government Resolution of 4th / 5th May 2020 is absolutely not convincing.

7.8 Now, we are constrained to observe that the Respondent No.2-Deputy Director, by questioning the approval granted by the Respondent No.3-Education Officer has indeed travelled beyond his jurisdiction while refusing to grant Shalarth identity. It is an admitted fact that the Respondent No.3-Education Officer is the only and final authority to grant approval to an appointment in the private schools. The Respondent No.2-Deputy Director does not sit in appeal over the approval granted by the Respondent No.3-Education Officer while granting Shalarth identity under the G.R. dated 7th November 2012 r/w G.R. dated 20th March 2019.

7.9 We refer to the view expressed by this Court (Principal Seat) in the case of ***Abhijit Ashok Waje Vs. The State of Maharashtra & Ors., in Writ Petition No.8881 of 2021 along with connected matters, decided on 21st January 2022***, wherein Ld. Division Bench observed that once an approval is granted by the Education Officer (Secondary) Zilla Parishad, the Deputy Director of Education cannot refuse to grant Shalarth identity to the concerned employee nor the approval could have been cancelled/questioned by the Deputy Director of Education at that juncture unless procedure contemplates.

For ready reference para. No.9 of the said judgment is reproduced as follows:-

"9. However, it cannot be said that approval, once granted, cannot be reviewed at all. It is also not the contention of the learned Counsel for the Petitioners. Their objection is to the wholesale review of all approvals at the time of entering the data in Shalarth ID. This exercise can-

not be done solely on the basis of the Circular of 29 March 2019 as it is not a Government Resolution issued under the name of Governor of Maharashtra, but a circular by an officer of State Government which would not have a force of law as a Government Resolution. Therefore, unless and until a Government Resolution is issued, which at present is not being placed before us, the review of approvals will have to be done as per the Government Resolution placed on record that is 6 February 2012, read with corrigendum dated 23 August 2017, as interpreted by this Court to be done in the limited ambit. Also, this exercise is to be done in different circumstances and for which a different methodology is prescribed. If the State Government has to review the approval granted and set aside the same on the ground that it was based on misrepresentation or fraud, the separate Government Resolution and procedure for that purpose are contemplated. The power cannot be exercised at the stage when it was not conferred. Furthermore, the recent decisions of this Court referred to above, from where passages have been quoted, have also clarified the position.”

7.10 This Court had expressed its displeasure on the approaches of the Deputy Directors of Education whereby approvals granted by the Education Officers (Secondary), Zilla Parishad are cancelled while dealing on proposals for granting Shalarth identity. Useful reference can be made to para. No.08 of the decision of this Court (Principal Seat) in the case titled as ***Amol Baban Sangar Vs. The State of Maharashtra & Ors., in Writ Petition No. 8966 of 2021, decided on 21st February 2022.***

“8. Before parting with the judgment, we must place on record our displeasure to the way such an issue of inclusion of name of the school employees in Shalarth system is being dealt with by the Officers of Education Department of the State of Maharashtra. It must be borne in

mind by all the concerned officers that the Shalarth system was brought into vogue as per the Government Resolution dated 7/11/2012 and the only object of the Government Resolution was to streamline the system of payment of salary to the school employees and to bring complete uniformity and transparency in payment of salary by all schools. There is no other purpose which is sought to be achieved by Shalarth system of computerized payment of salary. Nowhere in the Government Resolution is there any clause which requires the Deputy Director, Education, for that matter any other Officer of the State, to reconsider the issue of grant of approval, nor does the Government Resolution vests any Officer with any authority to review the order of grant of approval to the appointment of any school employee by the Education Officer and then decide about inclusion or otherwise of the name of such school employee in the Shalarth system. Besides, the power of review of any administrative order, if at all it exists, must be expressly created in the applicable statute because it has the potential of taking away a right vested in a school employee. In such a case, the power of review cannot be conferred by any Government Resolution which is in the nature of executive instruction. Of course, here the Government Resolution in question dated 7/11/2012 does not create any such power of review in the Deputy Director, Education and therefore, the Deputy Director, Education in any case, cannot examine the legality or otherwise of the approval granted to the appointment of any school employee, on the pretext of deciding the question of inclusion of name of the employee in Shalarth system. Proper course for him is to confine himself to parameters of the said Government Resolution and satisfy himself as to whether or not the employee fulfills the conditions of the Government Resolution. If he sees that the employees fulfill the conditions, he must direct inclusion of name of such employee in the system. If he feels that employee does not fulfill them, he may reject the proposal. His rejection, if it is there, however, cannot be for any consideration other than the

consideration arising from the conditions stipulated in the Government Resolution dated 7/11/2012.”

7.11 This Court in the case of *Amol Baban Sangar (supra)* has also held that the G.R. dated 7th November 2012 introducing the Shalarth system doesn't provide any review power conferred upon the Deputy Director of Education to examine legality and validity of the approval granted by the Education Officer (Secondary), Zilla Parishad while granting Shalarth Id to the employee.

However, this Court also agreed that if approval granted to an appointment is to be reviewed, it must be in accordance with law and the procedure if contemplated. [emph. Para.14].

7.12 This Court (Aurangabad Bench) in ***Namdev Vishnu Sase Vs. The State of Maharashtra & Ors. in Writ Petition No. 6442 of 2021, decided on 18th November 2021***, observed as thus:

“9. The Deputy Director of Education, certainly can consider legality of the order of approval issued by the Education Officer, as he is higher authority. The contention of the petitioner that, the Deputy Director of Education did not have jurisdiction to decide the issue in dispute is not accepted. However, the manner in which the Deputy Director of Education has decided is improper. Now the respondent No. 5 also contends that he is appointed as Head Master. All these aspects will have to be considered by the Deputy Director of Education.

10. The Deputy Director of Education can certainly consider whether the petitioner is having necessary qualification to be appointed as Head Master and other aspects required for granting approval. The parties can agitate all these aspects before the Deputy Director of Education.”

7.13 Again on dealing with the Deputy Director of Education's duty to enlarge Shalarth identity to the employees of private schools together with objection as to the approval to the appointment, this court (Principal Seat) in the case of ***Ganesh Sidhanth Khilare Vs. The State of Maharashtra & Ors., in Writ Petition No.6613 of 2023, decided on 20th March 2024***, has observed as follows:-

"6. We have considered the submissions and perused not only the judgment relied upon by the Petitioner, but other relevant judgments also. This situation is already considered in the past, as explained below. We follow the same view.

a) In Shivani Deshpande Vs. State of Maharashtra, (WP No. 10133 of 2016 Order dated 1 August 2017) the Division Bench of this Court has held in paragraph 6 that it is settled principle of law that unless the power of review is specifically or by necessary implication provided, the authority cannot review its own order and no doubt if an order is obtained by exercising fraud, it would stand vitiated. It is further held in the same paragraph that if earlier Education Officer had granted approval, may be erroneously, the same cannot be made a ground to recall and pass contrary order, unless a case of fraud, misrepresentation or suppression is made out.

b) This view is then followed in Ansari Amina Muzhar Ali Vs. State of Maharashtra (WP No.1380/2019 (O.S.) Order dated 30 March 2021) by another Division Bench of this Court, adding that these factors of fraud, mis-representation etc. need not be restricted to acts of teachers and management alone but can also include collusion by the authorities.

c) In the case of Ashwini Yogesh Shete v/s. State of Maharashtra and others (Writ Petition No. 6897 of 2021 and other petitions, Order dated 20 October 2021), the Division Bench of this Court was

considering identical case involving earlier approval by the Education Officer and subsequent refusal by the Deputy Director of Education to enter the name of a teacher in Shalarth ID. After considering earlier orders on similar issue, it is held in paragraph 8 that in such a situation where approval is granted to the appointment, the Deputy Director of Education cannot refuse to enter the name in Shalarth ID.

d) In the case of Abhijit Ashok Waje v/s. The State of Maharashtra (2022 SCC online Bom 2709), the Division Bench of this Court, after taking review of earlier orders and considering the purpose of creating and maintaining Shalarth ID, has held in paragraph 9 that there has been a consistent view of this Court that if the approval is granted, at the time of making an entry in Shalarth ID, the Deputy Director could not have refused to enter the name. It is further held in paragraph 10 that if the State has to review approval granted and set aside the same on the grounds of misrepresentation, fraud etc, separate procedure is contemplated.

e) In the case of Amol Baban Sangar (supra) also, relied upon by the Petitioner, the Division Bench of this Court has held that once approval is granted by the Education Officer for appointment, the Deputy Director of Education would have no jurisdiction to refuse to enter name of such employee in the Shalarth system."

7.14 Last but not the least, we refer to the view expressed by this Court (Aurangabad Bench) in the case of ***Gajanan Baburao Holge Vs. The State of Maharashtra, in Writ Petition No. 9696 of 2021, decided on 18th March 2024***, thereby holding that even where appointment was not made through 'Pavitra Portal' and approval was granted, the Deputy Director of Education was not justified in cancelling the Approval and declining Shalarth Identity to the concerned Petitioner.

The observations are reproduced as follows:

"9. The Shalarth Pranali has been brought in existence from the Government Resolution dated 07.11.2012 with an object to streamline the payment of salary to the employees through hassle free, uniform and transparent system by all the schools. This Court after referring to the contents of the Government Resolution dated 07.11.2012 observed that the said Government Resolution does not create any power of review in Deputy Director of Education and, therefore, the Deputy Director of Education in any case cannot examine legality or otherwise of the approval granted to the appointment of any school employees, on the pretext of deciding question of inclusion of the name of the employee in the Shalarth system. The proper course for him to confine himself to parameters of the said Government Resolution and satisfy himself as to whether or not the employee fulfills the condition of the Government Resolution. Once he is satisfied about the fulfillment, he must direct inclusion of the name of such employee in the system (please refer to the order dated 21.02.2022 passed at Principal Seat at Bombay in Writ Petition No.8966/2021 in the matter of Amol Baban Sangar Vs. The State of Maharashtra and Ors.). Similar view is reiterated by this Court.

10. In the present case, respondent no.2 has not observed that the petitioner or the management of the school indulged in any fraudulent activities or created false record by which the approval has been secured. There is nothing to indicate that the petitioner or the management was served with any show cause notice for cancellation of the approval on the ground of fraud or misrepresentation. Even from the impugned order, no inference can be drawn that the cancellation of the approval was for the reason like fraud or misrepresentation that will vitiate the ground of approval itself. Only reasons that is supplied in the impugned

order is that the appointment is not processed through Pavitra Portal. In that view of the matter, we have no hesitation to hold that respondent no.2 exceeded his jurisdiction while threshold cancelling approval, so also rejecting proposal for inclusion of the petitioner's name in the Shalarth Pranali."

7.15 From the discussion above and for the reasons recorded, we hold that:

- (i) The ban on appointments imposed vide G.R. dated 4th / 5th May 2020 could not prevent the present school management i.e. Minority Educational Institutions from appointing the Petitioner No.1.
- (ii) Once approval is granted by the Education Officer (Secondary), Zilla Parishad, the Deputy Director of Education neither can refuse nor can merely sit over the proposal to include the name of the concerned employee in the Shalarth System. Rather the Deputy Director of Education is under mandate to issue Shalarth Identity to such employee and to include such employee's name in the Shalarth system. Needless to mention, this being of ministerial / administrative nature, the Deputy Director of Education must immediately complete the said exercise of granting Shalarth Identity to the concerned employee. Refusal or inaction, as the case may be, on the part of the Deputy Director of Education not only results into deprivation of concerned employee's legitimate right of salary/honorarium, but also causes unnecessary court litigation.
- (iii) Deputy Director of Education does not sit in appeal over the approval granted by the Education Officer (Secondary), Zilla

Parishad while granting Shalarth Identity under G.R. dated 7th November 2012 r/w G.R. dated 20th March 2019.

However, it's not that the approvals granted by the Education Officers (Secondary), Zilla Parishads cannot be subjected to review at all. Review of an approval is permissible within the four corners of law, the procedure contemplated, and in the peculiar facts of the cases e.g. if the approval was obtained by fraud or misrepresentation etc.

8. In view of the above, we are inclined to allow the Petition as follows. Hence, following Order:-

- (i) Writ Petition stands allowed.
- (ii) The Respondent No.2-Deputy Director shall grant Shalarth Identity to the Petitioner No.1 and would include the name of the Petitioner No.1 in the Shalarth Pranali within a period of Four weeks from the date of receipt of this order.
- (iii) Consequential release of honorarium /grant for honorarium be processed within four weeks thereafter.
- (iv) Rule made absolute in above terms.
- (v) No order as to costs.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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