

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6752 OF 2024

Bhikaji Shivaji Patil.

...Petitioner.

Versus

The State of Maharashtra and Others.

...Respondents.

Mr. Prashant Bhavake for the Petitioner.

Mr. S. B. Kalel, AGP for the Respondent-State.

Mr. Utkarsh Desai for the Respondent Nos.6 and 7.

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

Date : September 18, 2025.

P. C. :

- 1. Rule.** Rule made returnable forthwith and by consent taken up for final disposal.
- 2.** The Petition impugns order dated 6th September 2023 passed by the Respondent No.5-Education Officer (Secondary), Zilla Parishad, Kolhapur rejecting the proposal seeking individual approval to the appointment of Petitioner as Shikshan Sevak in the Respondent No.7-School.
- 3.** The Petitioner possesses B.A., B.Ed. qualification and belongs to EWS category. Due to the retirement of Assistant Teacher – Smt. Patil, death of Assistant Teacher S. S. Patil and promotion of Head Master Mulani, 3 vacancies of Shikshan Sevak were created at the Respondent

No.7-School and as per the available workload, out of said 3 vacant posts, one post was required to be filled up from the candidates eligible to teach English subject from EWS category.

4. In order to ascertain the availability of a suitable surplus teacher for absorption on the said vacant post, the Respondent No.6 submitted applications to the Respondent Nos. 3 to 5 on 7th September 2019, 23rd September 2021, 8th October 2021, 6th December 2021 and 4th March 2022 requesting them to communicate the details of surplus teachers and seeking permission for recruitment through Pavitra portal in case the suitable teacher was not available and also permission for issuing advertisement. The only communication received from the Respondent No.4–Deputy Director of Education was on 17th December 2021 directing the Respondent No.6 to contact the office of Respondent No.5 for permission for issuance of advertisement. Though approached, the Respondent No.5 did not respond to the applications seeking permission for issuance of advertisement. The Respondent No.6, therefore, published an advertisement in daily newspaper “Lokmat” on 25th March 2022 for appointment to the post of Shikshan Sevak along with other posts. Being eligible, the Petitioner applied in response to the said advertisement and was selected after following due procedure. The Petitioner came to be appointed on the post of Shikshan Sevak with effect from 15th June 2022 from EWS category. On 7th August 2023, the

Respondent No. 7- School submitted proposal for individual approval to the appointment of Petitioner which has been rejected by the impugned order dated 6th September 2023.

5. Mr. Bhavake, learned Counsel appearing for the Petitioner would submit that proposal for the appointment of petitioner came to be rejected on 2 grounds, firstly that no permission was taken for issuance of advertisement in accordance with the Government Resolution dated 6th February 2012 and secondly that appointment was not made through Pavitra portal. He submits that insofar as the issue of appointment being not routed through Pavitra portal is concerned, the decision in ***Kalyansing Indrasing Rajput v. State of Maharashtra***¹ is squarely applicable to the facts of present case. He submits that in that case the Co-ordinate Bench of this Court directed the proposal to be approved by considering the factual position that Pavitra Portal was not functional from 2017 till June 2024 or even thereafter.

6. He submits that though the Respondent Nos.6 and 7 made several applications seeking permission for issuance of advertisement and to communicate the information about surplus teacher, there was no response and due to inaction on the part of Respondent No.5, the proposal cannot be rejected. He submits that the decision in the case of ***Vidarbha Youth Welfare v. State of Maharashtra***² holds that prior

1 Aurangabad Bench W.P. 10205 of 2024 decided on 23-4-2025.

2 (2022) 4 Mh.L.J. 69.

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

7. *Per contra* Mr. Kalel, learned AGP would support the impugned order and would oppose the petition. He would submit that recruitment process was required to be carried out through Pavitra portal as mandated by Government Resolution dated 23rd June 2017 and not having done so, Respondent No.5 has rightly rejected proposal.

8. It is not disputed that the Petitioner is duly qualified for appointment to the post of Shikshan Sevak from EWS category. The grounds of rejection are not sustainable firstly for the reason that applications which are at pages 41 to 45 would indicate that time and again communications were addressed by the Respondent No.6– Educational Institution to the Respondent Nos.3 to 5 seeking details of surplus teacher, and in case surplus teacher is not available, requested for permission to fill up the vacant post through Pavitra portal. There was no positive response from the Respondent Nos.3 to 5 and due to failure on the part of the Respondent Nos.3, 4 and 5 themselves to effectively respond to the applications made by the Respondent No. 6, the same cannot constitute a ground for rejection of proposal for appointment of Petitioner. Left with no other option due to inaction on the part of Respondent Nos.3, 4 and 5, the Respondent No. 6 had issued the advertisement and after following due procedure appointed the Petitioner to the post of Shikshan Sevak. The non functioning of Pavitra

portal from 2017 onwards until atleast June 2024 is a factual finding recorded by the Co-ordinate bench of this Court in ***Kalyansing Indrasing Rajput v. State of Maharashtra*** (supra) and considering that said position is not disputed by the State Government, it is not open for the Respondent No.5 to reject the proposal on that basis.

9. In the light of above, we allow the writ petition in terms of prayer clauses (b) and (c), which reads thus :

“[b] By suitable writ, order or direction, this Hon'ble Court be pleased to quash and set aside the impugned order dated 6-9-2023 passed by Respondent No.5-Education Officer thereby rejecting to grant proposal submitted by Petitioner Nos. 6 and 7 seeking individual approval to the appointment of the Petitioner in the aided post of Shikshan Sevak years w.e.f 15-6-2022 and accordingly, be pleased to further direct the Respondent No. 5-Education Officer to grant individual approval to the appointment of the Petitioner in the aided post of Shikshan Sevak w.e.f. 15-6-2022 at the Respondent No.7-School within a period of 4 weeks or any other period which this Hon'ble Court thinks fit and proper and accordingly, to release salary/honorarium payable to Petitioner with its all arrears withing 8 weeks from the date of Shalarth ID to the Petitioner;

[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 and permit the Respondent No.5-Education Officer to include the name of the Petitioner in Shalarth Pranali within two weeks from the date of granting approval to the appointment of the Petitioner in the aided post of Shikshan Sevak or within any other period which this Hon'ble Court deems fit and proper”

10. Rule is made absolute in above terms.

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]