

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

WRIT PETITION NO. 12280 OF 2025

Nilesh Sitaram Salunkhe

... Petitioners

Versus

The State of Maharashtra And Others

... Respondents

Mr. Prashant Bhavake for the Petitioner.

Adv. R. P. Kadam, 'B' Panel Counsel, AGP for the Respondent-State.

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

Date : November 25, 2025.

P. C. :

1. Heard learned Counsel for the parties.
2. The Petitioner is challenging the order dated 28th February 2024, passed by Respondent No. 4—Deputy Director of Education, Pune Region, Pune, whereby the Respondent No. 4 rejected the Petitioner's proposal for issuance of Shalarth ID and inclusion of his name in the Shalarth Pranali for the purpose of online salary payment.
3. The Respondent No. 5 – the Education Officer (Secondary), Zilla Parishad, Solapur, by way of a recommendation letter, forwarded the Petitioner's proposal to the office of Respondent No. 4 seeking

permission for inclusion of the Petitioner's name in Shalarth Pranali and allotment of a Shalarth ID. However, the Respondent No. 4 rejected the said proposal without giving an opportunity of hearing to the Petitioner.

4. By an order dated 4th July 2022, Respondent No. 5 – Education Officer (Secondary) approved the proposal submitted by the Management for appointment of the Petitioner as Assistant Teacher with effect from 2nd June 2020. However, by the impugned order dated 28th February 2024, Respondent No. 4 – Deputy Director of Education rejected the proposal on the ground that the Petitioner's appointment was not made through the Pavitra Portal. The said order was passed without affording the Petitioner an opportunity of hearing.

5. In the ordinary course, the matter could have been remitted to the Deputy Director of Education to hear the Petitioner and pass a fresh order.

6. However, our attention is invited to the order passed by this Court in the case of ***Amol Baban Sangar v. The State of Maharashtra***, in Civil Writ Petition No. 8966 of 2021, decided on 21st February 2022. In paragraphs 8 and 14, this Hon'ble Court observed as follows:

"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 fulfills 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.

14. *A copy of the interim order dated 21/1/2022 is made available to us for our perusal by the learned counsel for the Petitioner. In this order, this Court has taken a view that approval once granted can be reviewed at a later point of time, but same is to be done in accordance with law and that such exercise of review of approval cannot be done solely on the basis of Circular dated 29/3/2019 as it is not a Government Resolution issued under the name of the Governor of Maharashtra, but is a Circular issued by an Officer of State Government, which would not have the force of law as a Government Resolution. We would not disagree with the prima facie view so expressed in the interim order dated 21/1/2022 rather, we would go further. If the decision granting approval to the appointment of the school employee has to be reviewed, it has to be done only in accordance with well settled parameters of law. Power of review of an administrative order creating rights in favour of the employees can be exercised only when there is a statutory provision made in that regard and if it is exercised in a manner adverse to the employee it would also have to be done by following principles of natural justice. In other words, there has to be first a power of review conferred on the Authority and then creation of the mechanism in which such power of review can be exercised. Such power and such mechanism is not seen in the Government Resolution dated 7/11/2012 which is the principle source of inclusion of name of any employee in the Shalarth system and therefore, the Circular dated 29/3/2019 which also does not lay down any mechanism for exercise of power of review and which finds no support in the Government Resolution dated 7/11/2012 would not be enforceable in law insofar as it directs the concerned Authority to examine the issue of grant of approval in an appropriate way and thus we find that it has no binding effect on the Authorities to whom it is directed."*

7. It is for this reason that we are not inclined to accept the submissions of the learned AGP attempting to justify the order passed by the Deputy Director. The learned AGP also urged that the matter should be remitted to the Deputy Director to afford the Petitioner an

opportunity of hearing. However, we are not persuaded by these submissions for the reasons stated by this Hon'ble Court in the order in ***Amol Baban Sangar v. The State of Maharashtra (supra)***.

8. Since the Education Officer has approved the appointment of the Petitioner, the issuance of the Shalarth ID shall follow. We keep it open to the Competent Authorities to revisit and reconsider the order passed by the Education Officer granting approval to the Petitioner, in accordance with the established procedure.

9. Writ Petition is allowed in terms of prayer clause (b) which reads thus:

“(b) By a suitable Writ, Order or direction, this Hon'ble Court be pleased to quashed and set aside the impugned order dated 28-2-2024 passed by the Respondent No. 4-Deputy Director of Education thereby rejecting the proposal for issuing Shalartha ID to the Petitioner by including his name in Shalartha Pranali for online payment of salary and accordingly be pleased to further direct the Respondent No. 4 to forthwith include the Petitioner's name in Shalartha Pranali by allotting Shalartha ID and be pleased to further direct Respondents to release entire arrears of Petitioner's salary within the stipulated period as this Hon'ble Court may deem fit and proper;”

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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