

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

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4517 OF 2024

Smt. Nilam Arun Dhere And Ors.

... Petitioners

Versus

The State of Maharashtra And Ors

... Respondents

*Mr. Satish Raut h/f Mr. Laxman Shivajirao Deshmukh for the Petitioner.
Mr. S. B. Kalel AGP for the Respondent-State.*

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

Date : September 8, 2025.

P. C. :

1. The Petitioner is challenging the order dated 8th November, 2021 issued by the Respondent No. 3-Education Officer by which Respondent No. 3 has refused to grant approval to the first Petitioner's appointment to the post of Assistant Teacher in the Petitioner's School.
2. The Petitioner is qualified as B.Sc., B.Ed. He was eligible to be appointed to the post of Assistant Teacher in the private school. Three posts of Assistant Teacher became vacant in unaided section in the Petitioner No. 3-School on 5th July, 2018 on account of transfer of three

Assistant Teacher from unaided division to aided division. The Petitioner No. 2-Management therefore vide letter dated 5th July, 2018 sought permission from Respondent No. 3 for issuance of advertisement and for filling up three posts of Assistant Teacher. However, the Education Officer did not respond to the said letter. The Petitioner No. 2-Management issued an advertisement on 22nd July, 2018 in daily Tarun Bharat, local newspaper to invite the application for eligible candidate for the post of Assistant Teacher. The Petitioner No. 2-Management appointed Petitioner No. 1 vide appointment order dated 30th November, 2018.

3. The Petitioner No. 3-Management submitted proposal on 10th December, 2018 in the office of Respondent No. 3 for grant of approval in unaided divisions of the Petitioner No. 3-School. The Respondent No. 3 by impugned letter dated 8th November, 2021 refused to grant approval to the 1st Petitioner's appointment on the following grounds:

- (i) No permission was obtained for issuance of advertisement.
- (ii) Recruitment should have been made through Pavitra Portal as per Government Resolution dated 23rd June, 2017.
- (iii) Appointment is made after Pavitra Portal System.
- (iv) Recruitment is not made as per the provisions of Government Resolution dated 6th February, 2012.

(v) Certificate of no dispute in management was not produced.

(vi) Extract of Public Trust Register was not produced.

(vii) Certificate that 100% teacher were absorbed.

4. We have heard learned AGP for the Respondents-State.

5. Learned AGP invited our attention to affidavit-in-reply filed on behalf of the Respondent No. 1. It is submitted that impugned order warrants no interference. It is submitted that appointment made is contrary to the condition laid down in the Government Resolution. It is submitted that the no permission was sought before issuance of the advertisement. It is further submitted that roster is not properly maintained.

6. We find that the Petitioner No. 2 by letter dated 5th July, 2018 had sought permission from Respondent No. 3 for issuance of advertisement. However, Respondent No. 3 did not respond to the letter. The management thereafter proceeded to issue the advertisement.

7. In such circumstances, there is no justification for the Respondents to contend that the Management has not sought permission before issuance of the advertisement. So far as the provision of Government Resolution dated 23rd June, 2017 are concerned, it needs to be noted that the Pavitra Portal was activated only in the year 2024. The Hon'ble

Division Bench of this Court (Bench at Aurangabad) in the case of *Kalyansing Indrasing Rajput & Ors. vs. The State of Maharashtra* passed in Writ Petition No. 10205 of 2024 observed that from 2017 onwards until June-2024, and might be even thereafter Pavitra Portal were not working. The benefit accordingly was given to the Petitioner therein by this Court while directing grant of approval to the appointment.

8. The decision in the case of *Kalyansing Indrasing Rajput & Ors. vs. The State of Maharashtra (supra)* squarely covers the present case and hence Petition deserve to succeed. So far as the roster point is concerned, the same was not the reason for the rejection of the proposal as can be seen from the impugned order. The said reason is taken for the first time in the affidavit filed on behalf of the Respondent. The Petitioner therefore deserves to succeed and accordingly succeeds.

9. In this view of the above facts, we have no hesitation to allowing the Petition, and hence the following order:

(a) The impugned order dated 8th November, 2021 is quashed and set aside.

(b) The appointment of the Petitioner in the post of 'Assistant Teacher' w.e.f 30th November, 2018 be approved by granting individual approval to the appointment of the Petitioner in the post of 'Assistant

Teacher' w.e.f 30th November, 2018.

(c) Further individual approval be granted to the appointment of the Petitioner in permanent post of Assistant Teacher in regular pay scale.

10. Writ Petition is allowed in terms of prayer clause (a) and (b).

[Sharmila U. Deshmukh, J.]

[M. S. Karnik, J.]