

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7285 OF 2024

1. Allwina Kistu Lobo,
Aged 36 Yrs, Occ. Service,
R/o. Vishnu Ravate Niwas,
Hadalpada, Near CPM Office,
Talasari, Dist. Paghar – 401606
 2. Adiwasi Pragati Mandal,
Tal. Talasari, Dist. Palghar – 401606,
Through its Chairman/Secretary
- ...Petitioners

Versus

1. The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai – 400 032
 2. The Deputy Director of Education,
Mumbai Region, Mumbai
 3. The Education Officer,
[Secondary], Zilla Parishad, Palghar
- ...Respondents

Mr. Narendra Bandiwadekar, Sr. Advocate a/w Mr. Vinayak Kumbhar, Mr. Rajendra Khaire, Mr. Aniket Phapale i/by Ms. Ashwini Bandiwadekar, Advocate for the Petitioners.

Mr. V.M. Mali, AGP for Respondents/State.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 9th APRIL, 2025

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ORAL JUDGMENT (PER : RAVINDRA V. GHUGE, J.) :-

1. Rule. Rule made returnable forth with and heard finally by the consent of the parties.

2. Petitioner No.1 is the Employee appointed by the Petitioner No.2, Management. The Petitioners have put forth Prayer Clauses (b), (c), (d) and (e), as under :-

“b] By a suitable writ, order or direction, this Hon'ble Court may be pleased to quash and set aside the impugned order dated 18.5.2023 issued by the Respondent No. 2, and accordingly the Respondent Nos. 2 and 3 may be directed to restore the order dated 24.9.2021 issued by the Respondent No. 3 granting individual approval to the appointment of the Petitioner No. 1 as a Shikshan Sevak in the aided school of the Petitioner No. 2 Management, with all consequential benefits.

c] By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 2 to grant permission to enter the name of the Petitioner No. 1 in Shalartha Pranali and to allot her Shalartha I.D. as a Full Time Shikshan Sevak in the aided school of the Petitioner No. 2 Management, with all consequential benefits.

d] By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 3 to immediately sanction and release the grant-in-aid for payment of monthly honorarium for a period of 3 years in the post of Shikshan Sevak to the Petitioner No. 1 i.e. 3.11.2014 to 2.11.2017, with all arrears.

e] By a suitable writ, order or direction, this Hon'ble Court may be pleased to direct the Respondent No. 3 to grant further approval to the Petitioner No. 1 as a Full Time Assistant Teacher on regular basis and on payment of salary in pay scale w.e.f. 3.11.2017 in the aided school of the Petitioner No. 2 Management alongwith release of grant-in-aid for payment of salary in pay scale w.e.f. 3.11.2017, with all arrears.”

3. Petitioner No.1 holds the qualification of B.Sc. (Chemistry) and B.Ed. (Science/Mathematics). She belongs to the open category. Petitioner No.2/Management operates a fully Aided Secondary School (Standard 5th to 10th). An advertisement was published in a practically unknown newspaper, namely ‘Rajtantra’ on 16th October, 2014. Around six candidates are said to have applied and participated in the selection process. The Petitioner No.1 was appointed as a Shikshan Sevak on 3rd November, 2014. Approval has been granted to the appointment. Subsequently, she was appointed as an Assistant Teacher after three years and she was granted an Approval, vide order dated 24th September, 2021.

4. By the impugned order dated 18th May, 2023, issued by Respondent No. 2, the order of approval dated 24th September, 2021, issued by Respondent No. 3, thereby granting individual approval to the appointment of the Petitioner No. 1 as a Shikshan Sevak in

the aided school, was cancelled.

5. The Divisional Deputy Director of Education, Mumbai, Shri. Sandeep Sangave, has passed the detailed order on 18th May, 2023, which is impugned in this Petition. Vide the said order, it was recorded that the Management has committed irregularities in the appointment of Petitioner No.1. Insofar as the conclusion that her appointment was *de-hors* the Pavitra Portal Pranali, we do not find that such conclusion could be sustained since the Pavitra Portal Pranali was introduced after this Court delivered a Judgment at the Nagpur Bench in Public Interest Litigation No.8 of 2015, dated 24th June, 2015, directing the State to introduce a mechanism for the recruitment and appointment of teachers. The Government Resolution dated 23rd June, 2017, was introduced for the said purpose.

6. From the impugned order, we do not find that Petitioner No.1 could be faulted. She noticed an advertisement in the newspaper. She applied for the said post. There is no dispute that she has all the requisite qualifications and is otherwise eligible to be appointed. In all, six candidates participated in the selection process,

leading to the selection of the Petitioner No.1. In this backdrop, we concluded that Petitioner No.1 is not a fault.

7. We refer to a Judgment delivered by this Court at the Aurangabad Bench in the case of *Areeb Hasan Ansarinajeeb Hasan Ansari V/s. State of Maharashtra and Others*, (2023) 6 Mah LJ 441. After it was noticed that the Petitioner had already received a validity certificate and the Management had indulged in irregularities, that this Court observed in Paragraph Nos.16 to 20, as under :

“16. It is apparent that the admissions were de hors the rules. It also cannot be lost sight of the fact that the Managements made the parents believe that the admissions would be regularized after the validity certificates are granted by the Scrutiny Committee. In some of the cases, it is clear that the cancellation of the admissions by the ARA, was not even communicated to the students by the Management. It was only after the University declined permission to the students to appear for the examination, that these Managements had no option, but to confess to the students that their admissions have been cancelled.

17. It also cannot be ignored that these admissions of the Petitioners are from the Institutional Quota. We are unaware as to whether, the Managements have collected donations. The fact remains that, with the admission of these candidates, they are exempted from the payment of regular fees and such fees are reimbursed by the State Government. It cannot be ruled out that there could be some candidates, who had validity certificates and who

were below the ranks in merit vis-a-vis the Petitioners. They may have lost their admissions as these Petitioners were admitted without validity certificates. These factors are to be considered as being sufficient reasons to impose heavy costs on the Managements for admitting the students, de hors the rules. Taking into account the facts and circumstances in these cases, we are not inclined to impose costs on the students.

18. In view of the above, these **Writ Petitions are partly allowed**. The impugned orders cancelling the admissions of these Petitioners are quashed and set aside and their admissions shall stand regularized, as a onetime measure.

19. By way of costs, the Managements of the Colleges in which these students have been admitted, shall deposit an amount of Rs. 50,000/- per student, within thirty days, in this Court. After the amount as directed above is deposited, the Registry of this Court shall transmit the same to the following Institutions as under:—

Sr. No.	Name of Institution	Bank Details	Amount to be Transmitted
1.	NAAM Foundation, 1132-3, 2 nd Floor, Vishnu Darshan, Above Rahul Medical, Behind Hotel Lalit Mahal, Fergusson College Rd, Shivajinagar, Pune, Maharashtra 411016. (Mobile : 9881041354.)	Account No. 35226127148 IFS Code : SBIN0007339 State Bank of India, University Road, Pune.	Rs. 2,00,000/-
2.	Infant India, Anandwan, 659/Infant Hill, Infront of Bindusara Dam, N.H. 211, Pali, Beed -431122. Mobile- 9422693585/9822456411.	Canara Bank A/c No. 3773201000011 IFS Code : CNRB0003773	Rs. 2,00,000/-
3.	Orphanage home i.e. "Shantivan", Arvi, Tq. Shirur Kasar, District Beed. "Bhavani Vidhyarthi Kalyan Pratishthan, Arvi",	State Bank of India, Branch Shirur (Kasar), Account No.3344600096 3 IFSC Code : SBIN0005995	Rs. 2,00,000/-

4.	<i>The Day Care Center, High Court of Bombay, Bench at Aurangabad.</i>		<i>Rs. 1,00,000/-</i>
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20. We caution the Managements that they shall not recover the amounts, directly or indirectly, from the students under any pretext, including for the purposes of gathering/development fund etc., failing which, the Health University would be at liberty to initiate strict action against the Managements by following the due procedure laid down in law.”

8. In view of the above, this **Writ Petition is partly allowed in terms of prayer clauses (b) to (d)**. The impugned order recording certain irregularities on the part of the Management in conducting the selection process, are not interfered with. The Management shall initiate appropriate procedure for seeking grant of Shalarth-ID, if not already granted. In the event, such a proposal is already pending, the same shall be taken up by the appropriate Authority and the Shalarth-ID shall be granted within a period of 30 days from today or after the issuance of the order of approval. All the monetary benefits that are payable to Petitioner No.1, shall be made available, if there is no other legal impediment.

9. Insofar as the irregularities allegedly committed by the Management, let Respondent No.2 issue a notice of hearing to the Management calling upon it to show cause as to why action should

not be initiated against the Management for indulging in irregularities. After granting a reasonable opportunity of hearing to the Management, a reasoned order shall be passed. In the event, Respondent No.2 is of the view that costs may be imposed for the irregularities, the quantum of costs may be decided by the said Authority.

10. **Rule is made partly absolute in the above terms.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)