

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5215 OF 2024

Smt. Asha Vasant Adat

age:- 48 Yrs, Occu. :- Head Mistress,

R/At:- Akluj, Tal. Malshiras, Dist. Solapur,

Pin Code:- 413118

... Petitioner

Versus

1) State of Maharashtra
Through the Secretary School
Education & Sports Department
Mantralaya, Mumbai -400032.

2) The Education Officer, (Sec.)
Zilla Parishad, Pune- 411001.

3) The Deputy Director of Education
And Authorized officer for Divisional
Deputy Director of Education, Pune

4) The Deputy Director of Education
Pune region Pune Office At:- 17,
Dr. Ambedkar Road, Pune, 411001.

5) Nandikeshwar Shikshan Prasarak Mandal Dagadwadi,
By Shambhu Mahadeo Vidyalaya Dagadwadi, Tal.
Indapur, Dist. Pune-413114.

...Respondents

Mr. Suryajeet Prithviraj Chavan a/w Mr. Satish Vakhare for the
Petitioner.

Mr. V. G. Badgujar, AGP for the State/ Respondent Nos. 1 to 4.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

**RESERVED ON: 25th MARCH, 2025
PRONOUNCED ON: 02nd APRIL, 2025**

ORDER (PER ASHWIN D. BHOBE, J.)

1. Heard Mr. Suryajeet P. Chavan, learned Advocate for the Petitioner and Mr. V. G. Badgujar, learned AGP for the State/Respondent Nos. 1 to 4.

2. Challenge in the present petition is to the order dated 30.12.2022 passed by the Respondent No.3 (Deputy Director of Education), revoking the approval dated 11.07.2013 granted by the Respondent No.2 (Education Officer), to the appointment of the Petitioner as Assistant Teacher.

3. Petitioner was appointed as Assistant Teacher in the Respondent No.5 School. On 11.07.2013, Respondent No.2 granted approval to the appointment of the Petitioner as Assistant Teacher. Petitioner was subsequently appointed as a Head Mistress. Respondent No.2 vide order dated 09.10.2018 granted approval to the Petitioner as Head Mistress.

4. Respondent No.3 by notice dated 15.02.2022 called upon the Petitioner to show cause, as to why the approval dated

11.07.2013 granted by the Respondent No. 2 to the appointment of the Petitioner as Assistant Teacher, should not be cancelled. Petitioner appeared before the Respondent No.3 and filed reply dated 23.02.2022, justifying the legality of the approval dated 11.07.2013.

5. By the Impugned order dated 30.12.2022, the Respondent No.3 has revoked the approval dated 11.07.2013. Aggrieved, the Petitioner before this Court.

6. Challenge to the Impugned order by the Petitioner is twofold :- firstly on the ground of jurisdiction of the Respondent No.3 to revoke the approval dated 11.07.2013 granted by the Respondent No.2 and secondly on the ground of unexplained long interval between conclusion of hearing and passing of the Impugned order. He submits that the approval dated 11.07.2013 was granted by the Respondent No.2 after being satisfied with the appointment of the Petitioner was made by the Respondent No.5 after complying with the procedure. He places reliance on the judgment of this Court in the case of Sandeep Chudaman Shinde and Anr. Vs. State of Maharashtra and Anr.¹.

¹ Writ Petition No.7740 of 2021 decided on 8th December, 2023

7. Mr. V. G. Badgujar, learned AGP for the State/Respondent Nos. 1 to 4, by referring to the reasons recorded in the Impugned order, supports the same. He prays that the petition be dismissed.

8. Records of the case bears out that the Respondent had granted approval to the appointment of the Petitioner as an Assistant Teacher on 17.06.2013. The said approval has attained finality in as much as the same was neither reviewed nor set aside, till the passing of the Impugned order, which has been passed after almost more than eight years.

9. In the case of Amol Baban Sangar Vs. The State of Maharashtra, and Ors.² in paragraph Nos. 5, 6, and 14 has observed as under:-

“5. When the aforesaid facts are not in dispute, we see no reason for the Deputy Director, Education to again dig out the issue of grant of approval to the appointment of the Petitioner to aided post upon his transfer from unaided post, when it comes to inclusion of the name of the Petitioner in the Shalarth system. The Shalarth system has been initiated for facilitating the online payment of salary to the school employees by streamlining the whole system. When such is the object of the Shalarth system, the Deputy Director, Education cannot again look into the irregularity or otherwise caused in granting the approval to the appointment of the school employees by the Education Officer.

² Writ Petition No.8966 of 2021 dated 21.02.2022

6. In number of judgments one of which is the judgment delivered in the case of *Pramod Prabhakar Pokale v. State of Maharashtra*¹, this Court (Aurangabad Bench) while reiterating the law declared by other Division Bench of this Court in earlier judgments held that once an approval is granted by the Education Officer to the appointment of school employees, the Deputy Director, Education would have no jurisdiction to refuse to enter the name of school employees in the Shalarth system. This law squarely applies to the facts of the present case narrated above and, therefore, we are of the view that the impugned order being erroneous needs to be quashed and set aside.

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.”

10. In addition to the above, the Respondent No.3 has not

placed any material on record to justify the long interval between conclusion of the hearing and delivery of order.

11. In view of the position of law as referred to herein above, the Impugned order dated 30.12.2022 passed by the Respondent No.3 is quashed and set aside, consequently the approval dated 11.07.2013 granted by the Respondent No.2 is restored.

12. **The Writ Petition is partly allowed.** There shall be no orders as to costs.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)