



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO. 3782 OF 2025

PETITIONERS

- : 1. Anjuman Mufidul Islam Shikshan
Sanstha, Anjuman Campus, Nandura
Road, Khamgaon, Tah. Khamgaon,
Distt. Buldhana, through its Secretary/
President.
2. Anjuman High School, Khamgaon,
through its Headmaster, Khamgaon,
Tq. Khamgaon, District Buldhana.
3. Hanzala A. Khan Tarique A. Khan, Age
32 years, Occ. Service, R/o. Malvipura,
Pimpalgaon Raja, Tq. Khamgaon, Dist.
Buldhana.

//VERSUS//

RESPONDENTS

- : 1. Education Officer (Secondary), Z.P.
Jaistambh Chowk, Buldhana, Tq. &
Dist. Buldhana.
2. Deputy Director of Education,
Amravati Division, Amravati.

Mr. R.D. Karode, Advocate for the Petitioners.
Ms. Kavita H. Bhondge, AGP for the Respondents/State.

CORAM : SMT. M.S. JAWALKAR AND
RAJ D. WAKODE, JJ.

RESERVED ON : 26th SEPTEMBER, 2025.
PRONOUNCED ON : 15th OCTOBER, 2025.

JUDGMENT :- (PER : RAJ D. WAKODE, J.)

Heard Mr. R.D. Karode, learned counsel appearing for the petitioners, and Ms. Kavita H. Bhondge, learned AGP for the respondents/State.

2. **RULE.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties.

3. The petitioners seek challenge to the impugned communication dated 29th July, 2024, issued by respondent No.1 – Education Officer (Secondary), Zilla Parishad, Buldhana, thereby rejecting the proposal dated 29th May, 2024, submitted by petitioner No.2 seeking approval to the appointment of petitioner No.3 to the post of ‘Peon’.

4. The brief facts leading to the filing of the present petition are as follows:

Petitioner No.1 is a Minority Institution, holding a certificate of minority status issued by the Competent Authority of the State Minority Department, Mumbai, which is on record at page No.20 (Annexure-I). Petitioner No.1 runs petitioner No.2 – School duly recognized by the respondents and receiving grant-in-aid from the State Government. Petitioner No.3 is an employee of petitioner No.2 – School, who was appointed as a ‘Peon’ after following due procedure of law. Petitioner No.3 possessed the requisite qualification of having passed the 10th Standard, and therefore was eligible for appointment to the aforesaid post.

5. Petitioner No.2 published an advertisement dated 12th December, 2019 in the daily newspaper ‘*Matrubhumi*’, inviting applications for four posts of ‘Peon’. Petitioner No.3 was eligible for appointment to the said post and accordingly submitted his

application to petitioner No.2. It is pertinent to note that one of the posts of 'Peon' became vacant due to the voluntary retirement of an employee, Shri Abdul Gaffar Musabhai, with effect from 30th April 2016.

6. In pursuance of the aforesaid advertisement dated 12th December 2019, interviews were conducted by petitioner Nos.1 and 2. Petitioner No.3, having secured the highest marks, was appointed as a 'Peon' by petitioner No.2 *vide* appointment order dated 20th December 2019, which is on record at page No.37 (Annexure-VI). Petitioner No.3 joined the aforesaid post on the same day i.e. 20th December, 2019, and the copy of the joining report is on record at page No.38 (Annexure-VII). It is pertinent to mention here that since then, petitioner No.3 has been continuously discharging his duties in petitioner No.2 – School and has thereby acquired the status of a '*deemed confirmed employee*' in the aforesaid school.

7. Petitioner No.2 – School submitted a proposal seeking approval to the appointment of petitioner No.3, and consequently, for the inclusion of petitioner No.3's name in the *Shalarth Pranali* and issuance of a *Shalarth ID* to him. A copy of the proposal dated 29th May 2024, submitted by petitioner No.2 to respondent No.1 for grant of approval, is placed on record at page No.52 (Annexure-IX). However, respondent No.1, *vide* communication dated 29th July 2024, which is on record at page No.55 (Annexure-X), rejected the aforesaid proposal. Being aggrieved by the impugned communication dated 29th July 2024, the petitioners have approached this Court by filing the present writ petition.

8. This Court, on 22nd July, 2025, issued notice to the respondents. In response to which, respondent Nos.1 and 2 filed their reply on 17th September, 2025, supporting the impugned communication dated 29th July, 2024 and opposing the present writ petition.

9. Mr. R.D. Karode, learned counsel appearing for the petitioners, contends that the impugned communication dated 29th July 2024 rejects the proposal dated 29th May 2024, submitted by petitioner No.2, solely on the ground that a new staffing pattern has been approved by the Government of Maharashtra *vide* Government Resolution dated 11th December 2020, and hence, the appointment of petitioner No.3 to the post of 'Peon' cannot be approved.

10. He relies upon the order dated 23rd September 2024 passed by this Court in ***Writ Petition No.7252/2023 (Vidarbha Shikshan Bahuuddeshiya Va Apang Kalyan Sanstha, Buldhana Vs. State of Maharashtra)***, to contend that the provisions of the Government Resolution dated 11th December 2020 do not nullify appointments made earlier. On the contrary, the said Government Resolution itself protects the appointments made earlier till the superannuation of the appointed employees. Therefore, it is submitted that respondent No.1 was not at all justified in rejecting the proposal dated 29th May 2024 solely on the ground that a new staffing pattern has been approved *vide* Government Resolution dated 11th December, 2020.

11. On the other hand, Ms. Kavita H. Bhondge, learned Assistant Government Pleader, supported the impugned

communication. She contends that the State of Maharashtra, *vide* Government Resolution dated 11th December 2020, framed a new policy regarding the appointment of non-teaching staff. Therefore, petitioner Nos.1 and 2 ought not to have initiated the recruitment process until the new policy was brought into force.

12. She further submits that, as per the Government Resolution dated 10th June 2022, the proposal for inclusion of an employee's name in the *Shalarth Pranali* is required to be submitted within thirty days from the date of appointment. However, in the present case, petitioner No.2 submitted the proposal after the expiry of the prescribed thirty days period, and hence, the proposal has been rightly rejected.

13. We have heard the learned counsel for the parties and perused the material on record. A perusal of the impugned communication dated 29th July 2024, issued by respondent No.1 – Education Officer (Secondary), Zilla Parishad, Buldhana, clearly reveals that the proposal dated 29th May 2024, submitted by petitioner No.2 for grant of approval to the appointment of petitioner No.3 to the post of 'Peon', has been rejected solely on the ground that the Government of Maharashtra, *vide* Government Resolution dated 11th December 2020, has approved a new staffing pattern, and hence, approval cannot be granted to the earlier appointment of petitioner No.3 dated 20th December 2019. The reliance placed by respondent No.1 on the Government Resolution dated 11th December 2020 is not at all justified, for the reason that the provisions of a Government Resolution, unless specifically made applicable retrospectively, are to be applied prospectively.

14. In the present case, the revised staffing pattern came into force *vide* Government Resolution dated 11th December 2020. A perusal of the said Government Resolution nowhere indicates that its provisions are made applicable retrospectively. On the contrary, Clause (2) of the Government Resolution dated 11th December 2020 clearly states that appointments made prior to the issuance of the said Government Resolution shall be treated as legal and shall not be nullified. It further provides that posts filled prior to 11th December 2020 shall continue until the employee appointed therein attains the age of superannuation, after which the said post shall lapse.

15. This Court, while dealing with a similar issue in Writ Petition No.7252/2023 (cited *supra*), *vide* its order dated 23rd September 2024, has held as follows:

“4. The proposal thereafter was sent to the Respondent No.2 for approval, who has passed the impugned order rejecting the same in terms of the Government Resolutions dated 28.01.2019 and 11.12.2020. In our considered opinion, both these Government Resolutions do not contemplate cancellation of sanction retrospectively, which in fact cannot be done. All that those Government Resolutions contemplate is that from 11.12.2020 onwards, the appointment in Class IV in Secondary and Higher Secondary Schools which are administered grant in aid shall be on contract and not otherwise. This could not mean that the appointments earlier made would stand nullified, on the contrary the Government Resolution dated 11.12.2020 in Clause 2 itself indicates, that the posts which have been filled in, would lapse upon the employee being appointed therein having superannuated. This being the position, the impugned order dated 10.06.2022 cannot be sustained and is hereby quashed and set aside.

5. The Respondent No.2 is directed to grant approval to the appointment of the Petitioner No.3 and the name of the Petitioner No.3 as a consequence would be liable to be included in the Shalarth Pranali and the Petitioner No.3 accorded a

Shalarth ID. This shall be done within a period of three weeks from the date this order is placed before him.”

16. It is, therefore, held that respondent No.1 was not at all justified in rejecting the approval to the appointment of petitioner No.3 *vide* impugned communication dated 29th July 2024, solely on the ground that a revised staffing pattern had been approved *vide* Government Resolution dated 11th December 2020. In its reply, respondent No.1 has not disputed the existence of a sanctioned and vacant post of ‘Peon’ in petitioner No.2 – School, the procedure followed by petitioner Nos.1 and 2 for filling up the aforesaid post, and the eligibility of petitioner No.3 for appointment to the aforesaid post.

17. Therefore, the first contention of the learned AGP that the approval was rightly rejected in view of the revised staffing pattern adopted *vide* Government Resolution dated 11th December 2020, is unsustainable in the eyes of law and is accordingly rejected.

18. So far as the second contention of the learned AGP that the proposal for inclusion of the name in *Shalarth Pranali* was not submitted within thirty days from the date of appointment, the same is also not sustainable. The impugned order does not mention this reason for rejecting the approval of petitioner No. 3. The learned AGP cannot supplement the reasons in the impugned order through its reply, and therefore, this ground for rejecting the approval is also rejected.

19. Petitioner No. 3, who was duly eligible, was appointed against a clear sanctioned and vacant post by following the due

procedure of law, *vide* appointment order dated 20th December 2019. Petitioner No.3 has been working continuously on the aforesaid post since 20th December, 2019 and hence respondent No.1 was not at all justified in rejecting the proposal dated 29th May 2024, submitted by petitioner No.2, for grant of approval to the appointment of petitioner No.3 on the ground mentioned in the impugned communication dated 29th July, 2024.

20. In view of the above, we are inclined to allow the present writ petition and hence following order is passed:

ORDER

- (a) The writ petition is **allowed**.
- (b) The impugned communication dated 29th July, 2024, issued by respondent No.1 – Education Officer (Secondary), Zilla Parishad, Buldhana, thereby rejecting the proposal dated 29th May, 2024, submitted by petitioner No.2, for grant of approval to the appointment of petitioner No.3, is hereby quashed and set aside.
- (c) Respondent No.1 is directed to grant approval to the appointment of petitioner No.3 as a 'Peon', and respondent No.1 further forward the same to respondent No.2 – Deputy Director of Education, Amravati Division, Amravati, to include the name of petitioner No.3 in the *Shalarth Pranali*, and issue *Shalarth ID* to petitioner No.3.
- (d) The aforesaid exercise shall be done within a period of four weeks from the date receipt of this order.

(e) Rule is made absolute in the above terms. No order as to costs.

(RAJ D. WAKODE, J.)

(SMT. M.S. JAWALKAR, J.)

Vijaykumar