



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

WRIT PETITION NO. 4870 OF 2024

Satish Ganesh Binkar,
Aged 35 years, Occ. Service,
R/o C/o Shri Mahesh Kale, Behind
Hanuman Mandir, Rameshwari Nagar,
Nagpur 440027

...Petitioner

// VERSUS //

1. State of Maharashtra through its Secretary,
Department of School Education and
Sports, Mantralaya, Mumbai 400 032
2. The Education Officer (Secondary),
Zilla Parishad, Nagpur
3. The Deputy Director of Education, Nagpur
Division, Nagpur
4. The Superintendent of Pay and Provident
Fund Unit (Secondary), Nagpur, 132-A,
Ridge Road, Raghuji Nagar, Nagpur 440
009
5. Laxmidevi Dhiran Kanya Vidyalaya Society,
through its Secretary, Pt. Jawaharlal Nehru
Marg, Sitabuldi, Nagpur 440 012.
6. Laxmidevi Dhiran Kanya Vidyalaya,
through its Head Mistress, Pt. Jawaharlal
Nehru Marg, Sitabuldi, Nagpur 440 012

... Respondents

Shri Anand Parchure, Advocate for the petitioner.
Shri V.A.Thakare, AGP for the respondent/State.

CORAM : SMT. M.S.JAWALKAR &
PRAVIN S. PATIL, JJ.

DATED : 23rd JUNE, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Heard. **Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.

2. By this petition, the petitioner questioned the order dated 17th March, 2022 passed by respondent no.3 - Deputy Director of Education, Nagpur whereby while considering the proposal of inclusion of the name of the petitioner in the Shalarat Pranali, he had put a note that though petitioner is granted approval from the date of his appointment, the State Government would not be responsible for payment of backwages from the date of appointment. So also, the petitioner challenged the communication of Superintendent of Pay Unit dated 12th July, 2024 by which the salary bills of the petitioner are returned back in terms of order of Deputy Director of Education dated 17th March, 2022.

3. In the present petition, admitted factual position is that the present petitioner on 1st August, 2024 came to be appointed on compassionate ground as a Shikshan Sewak Sepoy in respondent no.2 School. At the time of appointment of petitioner, the School was having

sanctioned post and as such the appointment of petitioner was made on clear and vacant post.

4. It is further admitted fact that the respondent no.6 - School forwarded the proposal of petitioner to the respondent no.2 - Education Officer *inter alia* seeking approval to the post of Sepoy/peon on 14th February, 2015.

However, for a considerable period, the respondent no.2 - Education Officer failed to take decision on the pending proposal. Hence, petitioner was constrained to file Writ Petition No. 3001 of 2021, thereby seeking direction against the Education Officer to decide the pending proposal dated 14th February, 2015. This Court by order dated 17th August, 2021 in Writ Petition No. 3001 of 2021 directed the Education Officer (Secondary), Zilla Parishad, Nagpur to decide the pending proposal within a period of four weeks from the date of order. That in terms of direction issued by this Court, the Education Officer by order dated 30th November, 2021 decided the pending proposal of approval and thereby granted approval to the appointment of petitioner

w.e.f 1st August, 2024. The same was further continued by order dated 10th May, 2022.

5. It is stated that the State Government has introduced the Shalarat ID Scheme. The primary purpose of this scheme is to create a data base and facilitate paperless disbursement of the grant, particularly, the salary grant. Hence, after granting approval by the Education Officer to the payments of the teaching and non-teaching staff of the aided institution, instead of making physical entry, ID code is required to be created. This policy is introduced by the State Government vide resolution dated 7th November, 2012.

6. In pursuance of the policy of the State Government, the Management has forwarded the proper proposal to include the name of petitioner in the Shalarat Pranali after receiving the approval to the appointment of the petitioner. However, it is seen that by impugned order dated 17th March, 2022, the respondent no.3 by exceeding his power inserted the condition that though the approval is granted to the services of petitioner, he would not be entitled for arrears of salary from the date of order of appointment. Consequently, the Superintendent of

Pay Unit refused to accept the salary bills of the backwages of the petitioner.

7. In the above background, the petitioner constrained to approach this Court to quash and set aside the impugned order passed by the respondent no.3.

8. In response to the notice issued by this Court, the respondent no.3 instead of justifying his order dated 17th March, 2022 came with the submission that the respondent no.6 School made a request to cancel the note mentioned in the order dated 17th March, 2022 vide communication dated 9th August, 2024. Accordingly, he is ready to accept the said request subject to the condition that said proposal should be submitted through Education Officer with his recommendation.

9. *Prima facie* impugned note in the order dated 17th March, 2022 recorded by the respondent no.3 - Deputy Director of Education is illegal for the simple and valid reason that there are no reasons recorded as to why petitioner is not entitled to the arrears of salary from the State Government from the date of appointment.

10. It is further stated that as per the policy framed by the State Government vide resolution dated 7th November, 2022, Shalarat Pranali is only for the purpose to create a data base and facilitate the paperless disbursement of salary grant. Hence, according to us it is a mechanical process which has to be complied by the office of respondent no.2 once approval has been granted by the Education Officer after verifying record in the matter.

11. It is true to say that Deputy Director of Education is having powers to cancel the approval but that powers can be exercised if there is any objection to the order of approval or same is obtained by fraud or for any other justified reasons. For that purpose hearing opportunity is also required to be granted to the concerned employee.

12. Be that as it may, here in the present case, the respondent no.3 by exceeding his jurisdiction incorporated the note that petitioner is not entitled for backwages from the date of his appointment from the State Government.

13. Considering overall factual and legal position, it is clear that respondent no.3 Deputy Director of Education has no right nor powers

to incorporate condition, contrary to the approval granted by the Education Officer, we are of the view that impugned order is liable to be quashed and set aside. Hence, we proceed to pass the following order.

ORDER

i. The impugned order dated 17th March, 2022 passed by respondent no.3 - Deputy Director of Education, Nagpur Division, Nagpur is quashed and set aside to the extent of recording that Government is not entitled to pay backwages to the petitioner from the date of appointment.

ii. The respondent no.4-Superintendent of Pay and Provident Fund Unit (Secondary) is hereby directed to accept the proposal of backwages of petitioner and accordingly released the backwages of petitioner at an earliest in any case within a period of three months.

The writ petition is disposed of. No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M.S.JAWALKAR, J.]