



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13499 OF 2025

Bhimrao s/o Sadashiv Kale
Age: 41 years, Occu.: Service as Peon,
R/o. Railway Colony, Parli Vajinath,
Tq. Parli Vajinath, Dist. Beed.

.. Petitioner

Versus

1. The State of Maharashtra
Through its Principal Secretary,
School Education and Sports Department,
Mantralaya, Mumbai-32.
2. The Director of Education,
Secondary and Higher Secondary,
Directorate of Education,
Central Building, Camp, Near
Sasun Hospital, Pune-411 001.
3. The Deputy Director of Education,
Near Bhadkal Gate, Miepa Building,
Aurangabad.
4. The Education Officer (Primary)
Zilla Parishad, Beed.
5. The Secretary,
Vaidyanath Education Society,
Parli Vajinath, Tq. Parli Vajinath,
District Beed.
6. The Head Master,
Vaidyanath Vidyalaya (Primary),
Parli Vajinath, Tq. Parli Vajinath,
District Beed.

.. Respondents

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Mr. Tukaram M. Venjane, Advocate for the petitioner.
Mr. V. M. Kagne, AGP for respondent Nos.1 to 3/State.

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**CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.**

**RESERVED ON : 16 DECEMBER 2025
PRONOUNCED ON : 23 FEBRUARY 2026**

ORDER (Per Smt. Vibha Kankanwadi, J.) :-

. The petitioner, who is a member of Scheduled Caste, came to be appointed on the post of Peon by order dated 02.02.2011 after adopting due procedure of law. According to the petitioner, earlier Peon Shri. Raosaheb Bapurao Deshmukh stood retired on 31.01.2011 on superannuation and, therefore, his appointment was on the clear vacant post. The petitioner was in continuous service thereafter and, therefore, by order dated 02.02.2014, he was confirmed on the said post. Respondent No.4 by order dated 24.04.2014 had granted permanent approval to the services of the petitioner from 02.02.2014 in regular pay scale. The petitioner has contended that respondent No.6 School had forwarded the proposal for inclusion of the name of the petitioner in Shalarth I.D. to respondent No.4. Thereafter, it was forwarded by respondent No.4 to respondent No.3. Respondent No.3 had then forwarded it with recommendation to respondent No.2 by his letter dated 13.12.2017. In the meantime, the State Government by resolution dated 20.03.2019 conferred the powers for deciding Shalarth I.D. to respondent

No.3 and, therefore, the proposal of the petitioner was submitted to respondent No.3, however, by order dated 24.08.2020, respondent No.3 had rejected the said proposal by assigning the reasons that the proposal has not been submitted with recommendation of the Education Officer and other details were not given. The petitioner had then approached this Court by filing Writ Petition No.3576 of 2023. This Court by order dated 21.06.2024 set aside the order and directed the management to submit a fresh proposal by removing the defects in the proposal to the Education Officer and, thereafter, Education Officer was directed to forward the proposal to respondent No.3 and respondent No.3 was directed to take the decision. The Education Officer by communication dated 28.06.2024 asked respondent No.6 to ratify the queries raised in the proposal. Accordingly, on 15.07.2024, a fresh proposal was submitted by the school with ratification. After forwarding the same to respondent No.2, when respondent No.2 had not taken any step, petitioner again approached this Court by way of filing Contempt Petition No.522 of 2025. During the pendency of the contempt petition, respondent No.2 has rejected the said proposal on 31.07.2025. Hence, this petition.

2. Heard learned Advocate Mr. Tukaram M. Venjane for the petitioner and learned AGP Mr. V. M. Kagne for respondent Nos.1 to 3/State.

3. Respondent No.3 has filed affidavit of Bharat Subhashrao Palve, the Sub Inspector of Education, Chhatrapati Sambhajinagar, reiterating all the facts. It is then stated that respondent No.3 had found irregularities and fraudulent acts in the petitioner's approval, which was contrary to the Government policy while considering the proposal for inclusion of the name in Shalarth Pranali. When the things are connected to the public funds, a duty is cast on respondent No.3 to scrutinize the proposal minutely. Clear guidelines have been issued in Government Resolution dated 10.06.2022 as to how the proposals for inclusion of name in Shalarth Pranali are required to be examined. It is then stated that the Finance Department had imposed ban on appointments to Class 'C' and Class 'D' posts and according to the Government Resolution dated 05.06.2010, there was a complete ban on appointing non-teaching staff with effect from 05.06.2010 for a period of one year. By subsequent Government Resolution dated 16.07.2011, the said ban was extended for one more year i.e. from 16.07.2011 to 15.07.2012. The petitioner's appointment was to the post of Peon on 02.02.2011 i.e. during the period of ban and, therefore, the rejection is appropriate.

4. Learned Advocate for the petitioner relies on the decision in **Smt. Munoli Rajashri Karabasappa Vs. State of Maharashtra Through Secretary and others**, [Writ Petition Nos.8587 of 2016 with connected writ petitions

decided on 10.07.2017], wherein it has been directed that the Education Officers should examine each case for grant of proposal in three categories (a) Where the recruitment process is already commenced prior to GR dated 2nd May 2012; (b) Where the appointments made for filling up vacancies in English, Mathematics and Science; (c) where the recruitment is made to fulfil the backlog of reserve categories candidates. He also relies on the decision in **Padmin d/o Sonerao Hande Vs. The State of Maharashtra and others, [Writ Petition No.5241 of 2021 decided on 11.03.2022]**, wherein it has been observed that the recruitment process was already started prior to the Government Resolution dated 02.05.2012 and, therefore, the appointment is protected. Here also, the appointment of the petitioner is prior to the said circular.

. He also relies on the decision in **Amol Baban Sangar Vs. The State of Maharashtra and others, [Writ Petition No.8966 of 2021 decided on 21.02.2022]**, wherein it has been observed that :-

“....Nowhere in the Government Resolution is there any clause which requires the Deputy Director, Education, for that matter any other Officer of the State, to reconsider the issue of grant of approval, nor does the Government Resolution vests any Officer with any authority to review the order of grant of approval to the appointment of any school employee by the Education Officer and then decide about inclusion or

otherwise of the name of such school employee in the Shalarth system. Besides, the power of review of any administrative order, if at all it exists, must be expressly created in the applicable statute because it has the potential of taking away a right vested in a school employee. In such a case, the power of review cannot be conferred by any Government Resolution which is in the nature of executive instruction. Of course, here the Government Resolution in question dated 07.11.2012 does not create any such power of review in the Deputy Director, Education and, therefore, the Deputy Director, Education in any case, cannot examine the legality or otherwise of the approval granted to the appointment of any school employee, on the pretext of deciding the question of inclusion of name of the employee in Shalarth system. Proper course for him is to confine himself to parameters of the said Government Resolution and satisfy himself as to whether or not the employee fulfills the conditions of the Government Resolution. If he sees that the employees fulfill the conditions, he must direct inclusion of name of such employee in the system. If he feels that employee does not fulfill them, he may reject the proposal. His rejection, if it is there, however, cannot be for any consideration other than the consideration arising from the conditions stipulated in the Government Resolution dated 07.11.2012.”

5. Learned AGP submits that the information has been gathered and it was found that the original file with Education Officer (Primary), Zilla Parishad, Beed itself is not available for verification. In such

circumstances, how the name of the petitioner can be included in Shalarth I.D. He supports the affidavit on behalf of respondent No.3.

6. The first and the foremost fact that is required to be noted is that the documents on record, which were filed along with the proposal, would indicate that the advertisement for the post of Peon along with other posts appear to have been given in the newspaper on 14.06.2010. There is no dispute on the point that earlier Peon was supposed to get retired by superannuation on 31.01.2011, therefore, in anticipation it appears that the recruitment process was started and, then the petitioner came to be appointed on 02.02.2011. Education Officer has approved his services from 02.02.2011 till 01.02.2014 by order dated 06.03.2014. Thereafter, the school/institution appears to have confirmed the petitioner and thereafter again the proposal was given and, therefore by order dated 24.04.2014, the appointment of the petitioner was confirmed under the pay scale. Now, respondent No.3 is not disputing that the petitioner was getting the salary as per pay scale after that date. Here, it is to be noted that the petitioner was required to approach this Court again and again due to the inaction on the part of the Education Officer and respondent No.3. In spite of clear directions by this Court on 21.06.2024 i.e. in Writ Petition No.3576 of 2023, there was no compliance and, therefore, contempt petition was filed. It appears that

respondent No.3 got annoyed with filing of the contempt petition and, for no reason or rather, for foresome reason, the proposal has been rejected. At first place, in the impugned order dated 31.07.2025, respondent No.3 states that the original approval of the petitioner is of 2014 and second sentence is that it is within the period of ban. It appears that respondent No.3 has failed to consider the catena of judgments of this Court as aforesaid. Further, he also failed to consider the ratio laid down in **Pramod Prabhakar Pokale Vs. The State of Maharashtra and others, [2019 (3) Bom.CR 273]**, wherein this Court, while reiterating the law declared by the other Division Bench in earlier judgments, held that once an approval is granted by the Education Officer to the appointment of school employee; the Deputy Director of Education would have no jurisdiction to refuse to enter the name of school employee in Shalarth system. Merely because the file with the Education Officer is not traceable, he cannot reject the proposal. The decision dated 31.07.2025 is sheerly the result of anger in view of filing of contempt petition by the petitioner. It is also not explained by respondent No.3 as to why he himself has not filed the affidavit-in-reply. The affidavit-in-reply is by Sub Inspector of Education, Chhatrapati Sambhajnagar, who was the best person, to support his own decision. Now, in his affidavit, Mr. Bharat Palve has tried to give some more or different reasons to support the

rejection of the proposal which were not even mentioned in order dated 31.07.2025. When it is clearly stated in the petition that during the pendency of contempt petition, the decision dated 31.07.2025 has been taken, there ought to have been an explanation as to why the order dated 21.06.2024 was not followed or the proposal for inclusion of Shalarth I.D. was not decided within the period prescribed in the said order. Thus, we come to the conclusion that the impugned order is tainted with *mala fides* and deserves to be set aside.

7. Taking into consideration the fact that the petitioner's approval in the pay scale was of the year 2014 and till date his name has not been included in Shalarth I.D, it is because of sheer negligence on the part of the office of respondent Nos.3 and 4 and, therefore, we pass the following order :-

ORDER

- I) The writ petition stands allowed.
- II) The communication/order dated 31.07.2025 issued by respondent No.3 is hereby quashed and set aside.
- III) Respondent No.3 is directed to include the name of petitioner in Shalarth I.D. within a period of 15 days from today.

IV) Petitioner's salary be released within a period of one month from the date on which the name of the petitioner is included in the Shalarth I.D.

V) We impose cost of Rs.10,000/- to respondent No.3 for unnecessary delay in passing the order that too without considering the various decisions of this Court governing the field. The cost to be deposited with the High Court Legal Services Sub Committee, Aurangabad within a period of 15 days from today.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm