

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

(Sr. No.27) WRIT PETITION NO. 9315 OF 2024

Shaikh Akbar Nabilal

... Petitioner

Versus

The State Of Maharashtra Thr Its Secretary, School
Edu. And Sports Dept. and Ors.

... Respondents

.....

Mr. S.S. Kazi a/w M.N. Shaikh for the Petitioner.

Mr. N.V. Bandiwadekar, Senior Advocate a/w Mr. Sagar Mane, Rushikesh
D. Jagdale, Ms. Neha Farakate i/b Ashwini Bandiwadekar for Respondent
Nos. 5 and 6.

Ms. T.J. Kapre, AGP for the Respondent - State.

.....

ALONG WITH

(Sr. No.34) WRIT PETITION NO. 15404 OF 2024

Pankaj Satyawar Gadhave and Anr.

... Petitioners

Versus

The State Of Maharashtra Thr Its Secretary, School
Edu. And Sports Dept. and Ors.

... Respondents

.....

Mr. N.V. Bandiwadekar, Senior Advocate a/w Mr. Sagar Mane, Rushikesh
D. Jagdale, Ms. Neha Farakate i/b Ashwini Bandiwadekar for the
Petitioners.

Ms. T.J. Kapre, AGP for the Respondent - State.

.....

ALONG WITH

(Sr. No.51) WRIT PETITION NO. 11616 OF 2025

Vaishali D/o Kishor Dukare

... Petitioner

Versus

The State Of Maharashtra Thr Its Secretary, School
Edu. And Sports Dept. and Ors.

... Respondents

UDAY
SHIVAJI
JAGTAP
Digitally
signed by
UDAY
SHIVAJI
JAGTAP
Date:
2026.05.09
15:12:20
+0530

.....
Ms. Sneha S. Bhage for the Petitioner.
Mr. A.A. Naik, AGP for the Respondent - State.
.....

ALONG WITH
(Sr. No.53) WRIT PETITION NO. 12642 OF 2025

Smt. Sulan Yadav Shivsharan ... Petitioner

Versus

The State Of Maharashtra Thr Its Secretary, School ... Respondents
Edu. And Sports Dept. and Ors.

.....
Mr. Dinesh W. Bhosale a/w Ajay Parsekar for the Petitioner.
Mr. V.M. Mali, AGP for the Respondent - State.
.....

ALONG WITH
(Sr. No.54) WRIT PETITION NO. 12781 OF 2025

Prathmesh Dhanaji Patil ... Petitioner

Versus

The State Of Maharashtra and Ors. ... Respondents

.....
Mr. Prashant Bhavake for the Petitioner.
Ms. T.J. Kapre, for the Respondent - State.
.....

ALONG WITH
(Sr. No.62) WRIT PETITION NO. 613 OF 2026

Rohini Shivaji Patil And Others ... Petitioners

Versus

The State Of Maharashtra and Ors. ... Respondents

.....
Mr. Sushant A. Khatake for the Petitioner.
Mr. S.D. Rayrikar, AGP for the Respondent - State.
.....

**ALONG WITH
(Sr. No.63) WRIT PETITION NO. 614 OF 2026**

Harshad Hanumant Doiphode and Ors. ... Petitioners

Versus

The State Of Maharashtra Thr. Secretary School ... Respondents
Education And Sports Dept. and Ors.

.....
Mr. Sushant A. Khatake for the Petitioner.
Mr. A.P. Vanarase, AGP for the Respondent - State.

**ALONG WITH
(Sr. No.65) WRIT PETITION NO. 701 OF 2026**

Digambar Balu Pawar ... Petitioner

Versus

The State Of Maharashtra and Ors. ... Respondents

.....
Mr. Prashant Bhavake for the Petitioner.
Ms. T.J. Kapre, AGP for the Respondent - State.

**ALONG WITH
(Sr. No.66) WRIT PETITION NO. 819 OF 2026**

Saraswati Ramesh Patil ... Petitioner

Versus

The State Of Maharashtra and Ors. ... Respondents

.....
Mr. Prashant Bhavake for the Petitioner.
Mr. A.P. Vanarase, AGP for the Respondent - State.

**ALONG WITH
(Sr. No.67) WRIT PETITION NO. 820 OF 2026**

Prakash Mahavir Choudhari ... Petitioner

Versus

The State Of Maharashtra and Ors. ... Respondents

.....

Mr. Prashant Bhavake for the Petitioner.

Mr. S.D. Rayrikar, AGP for the Respondent - State.

.....

**ALONG WITH
(Sr. No.70) WRIT PETITION (STAMP) NO. 916 OF 2026**

Misba Mahammad Arif Patel and Ors ... Petitioners

Versus

The State Of Maharashtra and Ors. ... Respondents

.....

Mr. Chetan G. Patil a/w Bhushan S. Jadhav, Prathamesh P. Magadum,
Gajraj A. Mali for the Petitioners.

Ms. T.J. Kapre, for the Respondent - State.

.....

**ALONG WITH
(Sr. No.72) WRIT PETITION NO. 1421 OF 2026**

Jayshri Baliram Patil And Ors. ... Petitioners

Versus

The State Of Maharashtra and Ors. ... Respondents

.....

Mr. Sushant A. Khatake for the Petitioners.

Mr. S.B. Kalel, AGP for the Respondent - State.

.....

**ALONG WITH
(Sr. No.73) WRIT PETITION NO. 1451 OF 2026**

Arun Ramsingh Kalburgi ... Petitioner

Versus

Maharashtra Shikshan Prasark Mandal Solapur Thr. ... Respondents
Its President Solapur And Ors.

.....

Mr. Anant Vadgaonkar for the Petitioner.
Mr. V.M. Mali, AGP for the Respondent - State.

.....

**ALONG WITH
(Sr. No.74) WRIT PETITION NO. 1519 OF 2026**

Ranjit Laxman Sapate ... Petitioner

Versus

The State Of Maharashtra and Ors. ... Respondents

.....

Mr. Sushant A. Khatake for the Petitioners.
Mr. S.B. Kalel, AGP for the Respondent - State.

.....

**ALONG WITH
(Sr. No.75) WRIT PETITION NO. 1521 OF 2026**

Nikhil Rajkumar Jalgire and Ors. ... Petitioners

Versus

The State Of Maharashtra and Ors. ... Respondents

.....

Mr. Sushant A. Khatake for the Petitioners.
Mr. V.M. Mali, AGP for the Respondent - State.

.....

**ALONG WITH
(Sr. No.77) WRIT PETITION NO. 1529 OF 2026**

Netaji Shikshan Prasarak Mandal Thr. Secretary ... Petitioners

Subhashrao Bapurao Mane and Ors.

Versus

Director Of Education (secondary And High
Secondary) and Ors.

... Respondents

.....

Mr. Anant Vadgaonkar for the Petitioners.

Mr. S.B. Kalel, AGP for the Respondent - State.

.....

**ALONG WITH
(Sr. No.80) WRIT PETITION NO. 1577 OF 2026**

Sadik Husen Patvekari

... Petitioners

Versus

The State Of Maharashtra and Ors

... Respondents

.....

Mr. Prashant Bhavake for the Petitioners.

Ms. T.J. Kapre, AGP for the Respondent - State.

.....

**ALONG WITH
(Sr. No.501) WRIT PETITION NO. 1594 OF 2026**

Vishwakrupa Vidyapratisthan Bale, Solapur & Ors.

... Petitioners

Versus

Director of Education (Secondary) and Higher
Secondary) and Ors.

... Respondents

.....

Mr. Anant Vadgaonkar for the Petitioners.

Mr. V.M. Mali, AGP for the Respondent - State.

.....

**CORAM : MADHAV J. JAMDAR &
PRAVIN S. PATIL, JJ.**

DATE : 6th APRIL, 2026.

ORAL JUDGMENT : (Per Pravin S. Patil, J.)

- 1.** Rule. Rule is made returnable forthwith. By consent of the parties, Petitions are taken up for final hearing.
- 2.** In all these matters the common issue is involved, therefore, petitions are heard together and disposed of by this common Judgment and Order.
- 3.** In these matters, though the Education Officer has granted individual approval in favour of the Teachers and their proposal has been forwarded to the Deputy Director of Education and Director of Education, no decision till date has been taken by the authorities. Hence, petitioners seeks direction to decide the pending proposal within a time bound period. In other group, the Director of Education under the Policy of Shalarth I.D. has done review of the order of approval granted by the Education Officer and thereby rejected the proposal. As such, considering these common issues being involved in the matters, we have taken all these matters together to pass the following order.
- 4.** The State Government in the year 2012 introduced the Scheme of Shalarth Pranali. Admittedly, the Scheme is centralized, web-based integrated system for managing personnel information and payroll of grant-in-aid institutions in Maharashtra. It facilitates data exchange with other important modules of the Directorate of Accounts and Treasury. It is

the first step towards achieving a paperless electronic governance system, including payroll generation and online appointment processing for employees along with e-pay bills. The purpose behind this Scheme while its implementation was that every teaching and non-teaching staff working in grant-in-aid schools should receive their monthly salary in a timely manner, with complete transparency. By this system, a permanent digital record of employees is maintained, and all employees are required to be duly registered and listed. As such, to effectively implement this scheme, the Shalarth ID plays an important role in the education system. Through this system, the State Government can also regulate teacher recruitment, transfers, promotions, and retirement details to prevent fraudulent appointments. Accordingly, this system is an important mechanism for safeguarding the interests of duly approved employees.

5. This Court, time and again, has considered this Policy of the State Government. It would be relevant to refer some of the judgments delivered by this Court particularly in Writ Petition No. 8966 of 2021 (**Amol Baban Sangar vs. State of Maharashtra & Ors.**), Writ Petition No. 1520 of 2026 (**Vijay S/o Uttam Chavhan vs. State of Maharashtra & Ors.**), and Writ Petition No. 8881 of 2021 along with connected petitions (**Abhijit Ashok Waje Vs. The State of Maharashtra & Ors.**).

6. This Court, particularly in the case of **Amol Baban Sangar** (*supra*), has observed that once approval has been granted by the Education Officer to the appointment of a school employee, the Deputy Director of Education has no jurisdiction to refuse to enter the name of such employee in the Shalarth system. Apart from this, the Court has noted that there is a flood of cases before this Court due to inaction on the part of education authorities, particularly Education Officer and Deputy Director of Education, who are found negligent in taking decisions in such matters. Accordingly, this Court had issued certain directions to the authorities of Education Department. The relevant observation of this Court is reproduced as under :-

“8. Before parting with the judgment, we must place on record our displeasure to the way such an issue of inclusion of name of the school employees in Shalarth system is being dealt with by the Officers of Education Department of the State of Maharashtra. It must be borne in mind by all the concerned officers that the Shalarth system was brought into vogue as per the Government Resolution dated 7/11/2012 and the only object of the Government Resolution was to streamline the system of payment of salary to the school employees and to bring complete uniformity and transparency in payment of salary by all schools. There is no other purpose which is sought to be achieved by Shalarth system of computerized payment of salary. 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 7/11/2012 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 7/11/2012.

9. Unfortunately, the Government Resolution dated 7/11/2012 is not being followed in its letter and spirit and time and again, this Court is coming across several Writ Petitions raising a common grievance that the Deputy Director, Education has refused to include name of a school employee or a teacher on a consideration extraneous to the Government Resolution dated 7/11/2012. Undoubtedly, the ground of irregular grant of approval to the appointment of any school employee by the Education Officer, which is taken by the Education Officer for refusing to include the name of such employee in Shalarth system is something which is completely alien to the Government Resolution dated 7/11/2012 and it could never be taken recourse to by the Deputy Director, Education for recording his refusal in such a matter.

10. We therefore request Respondent No.1 to issue necessary instructions to all the Authorities regarding strict adherence to the Government Resolution dated 7/11/2012 and to not travel beyond the parameters set out in the Government Resolution dated 7/11/2012 while considering the matters pertaining to grant of approval for inclusion of names of the school employees in the Shalarth system.

11. We also request Respondent No.1 to bring to the notice of all

the concerned Authorities the observations made herein above so that time of school employees, school management and officers of the Government would not be unnecessarily wasted in litigation, which otherwise is avoidable.

12. Compliance with the above directions be made by Respondents within 4 weeks from the date of receipt of the order.”

7. In a like-wise manner, the co-ordinate bench at Aurangabad, by its order dated 4th March 2026 in the case of **Vijay Uttam Chavan** (supra), has once again considered the same issue and reiterated that the Shalarth Pranali has been introduced by the State Government to ensure transparency and accountability in the Department, particularly in respect of the salaries of teachers working in aided institutions. The authorities entrusted with the administration of the system must ensure its proper and efficient functioning and it should not become an instrument of arbitrariness or injustice. Accordingly, directions were issued to the Principal Secretary, Education Department, Government of Maharashtra to formulate comprehensive Government Resolution within a period of two months, incorporating the guidelines framed by the Co-ordinate Bench by prescribing a uniform procedure and timelines for consideration of all proposals relating to teachers’ appointments, approvals, transfers, and inclusion in the Shalarth system. It would be appropriate to reproduce the directions issued by the co-ordinate bench of this Hon’ble Court, as under :-

“18. Accordingly, this Court lays down the following guidelines which shall be followed by all Education Officers and Divisional Deputy Directors of Education throughout the State of Maharashtra until appropriate Government Resolution is issued by the State Government.

19. Whenever a proposal relating to approval of appointment, approval of transfer from unaided to aided post, approval of promotion, approval of appointment of Shikshan Sevak, or inclusion of a teacher's name in the Shalarth Pranali and any other proposals are submitted by the management or headmaster, the concerned Education Officer shall scrutinize the proposal within a period of fifteen days from the date of receipt. If any deficiency is noticed, the same shall be communicated to the management in writing within the said period clearly specifying all deficiencies at once.

20. The management shall be granted a reasonable period not exceeding fifteen days to cure the deficiencies. Once the corrected proposal is resubmitted, the Education Officer shall decide the proposal within thirty days and pass a reasoned order granting approval or rejecting the proposal.

21. In cases where the proposal is required to be forwarded to the Divisional Deputy Director of Education, the Education Officer shall forward the proposal along with clear remarks and recommendations within seven (07) days from the date of proposal.

22. Upon receipt of such proposal, the Divisional Deputy Director of Education shall scrutinize the proposal strictly within thirty (30) days. If the appointment approval already exists and the vacancy is duly sanctioned, the Divisional Deputy Director shall ensure immediate inclusion of the teacher's name in the Shalarth Pranali and issuance of Shalarth ID.

23. While examining proposals for Shalarth inclusion, the Divisional Deputy Director shall not reopen or re-examine the validity of the appointment approval already granted by the Education Officer, unless the approval order itself has been set aside by a higher authority or the court. The Divisional Deputy Director shall follow the judgment in *Amol BabanSangar vs. State of Maharashtra and others* 2022 (2) Bom. C.R. 484.

24. If any deficiency is found in the proposal at the level of the Divisional Deputy Director, the same shall be communicated to the Education Officer and the management within ten (10) days, and the corrected proposal shall be decided within fifteen (15) days thereafter.

25. In no case shall proposals relating to appointment approvals, transfer approvals, promotion approvals, grant-in-aid vacancy approvals, or inclusion in the Shalarth system remain pending beyond sixty (60) days from the date of submission of complete proposal.

26. The Education Department shall maintain a digital tracking system for all proposals received by the Education Officers and Divisional Deputy Directors of Education. The status of every proposal shall be updated online so that unnecessary delay and lack of accountability are eliminated.

27. If any officer fails to decide such proposals within the prescribed time limit without sufficient cause, the concerned authority shall record the reasons for delay in writing and the matter shall be reported to the higher authority.

28. Any deliberate delay, negligence or failure in deciding such proposals within the prescribed timeline shall amount to administrative misconduct and shall invite departmental action against the concerned officer.

29. The Principal Secretary, School Education Department, Government of Maharashtra, is directed to issue a comprehensive Government Resolution within two (02) months incorporating the above guidelines and prescribing a uniform procedure and timeline for consideration of all proposals relating to teacher appointments, approvals, transfer appointments, promotional appointments and Shalarth inclusion, etc. in consonance with existing Government Resolutions.

30. The said Government Resolution shall be circulated to all Education Officers, Deputy Directors of Education, Divisional Commissioners and all authorities connected with the administration of aided and unaided schools in the State of Maharashtra with an office order to follow the guidelines and observe the time line limits. The guidelines shall be followed strictly and mandatorily.

31. Failure to comply with the Government Resolution and the timelines prescribed therein shall result in disciplinary proceedings against the concerned officers.”

8. In addition to the above, it will be relevant to consider the revised guidelines framed by the State Government vide Government Resolution dated 10th June 2022. Perusal of this Government Policy clearly states that the time limit has been laid down to decide the proposal submitted by the Management in respect of deciding the issue of approval, forwarding of proposal to include the name in Shalarth Pranali etc. It will be relevant to reproduce Clauses 2.1, 3.1 and 3.2, which read as under :-

"२.१ संदर्भ क्र. १ येथील दि. ०६/०२/२०१२ रोजीच्या शासन निर्णयात नमूद विविध तरतुदीबाबत खालीलप्रमाणे कालमर्यादा निश्चित करण्यात येत आहे:-

अ. क्र.	मुद्दा	कालावधी	दि.०६/०२/२०१२ च्या शासन निर्णयातील मुद्दा
१	अतिरिक्त शिक्षकांच्या यादीमधून सुयोग्य व्यक्तीची शिफारस करण्याकरीता	१ महिना	अ (१), ब (२)
२	शिफारस प्राप्त व्यक्तीची रिक्त पदावर समावेशनाद्वारे नियुक्ती करणे.	१ महिना	अ (१), ब (२)
३	संस्थेस संबंधित रिक्त पद सरळसेवेद्वारे भरण्यास परवानगी देणे.	१ महिना	अ (३)
४	संस्थेस जाहिरातीच्या मसुद्यास मान्यता देणे.	१ महिना	अ (४), ब (३)
५	पदभरती झाल्यानंतर त्यांना वैयक्तिक मान्यता प्रदान करण्याच्या प्रस्तावावर कार्यवाही करणे.	१ महिना	ब (५ ते ९)

६	वैयक्तिक मान्यतेनंतर शालार्थ प्रणालीमध्ये नाव नमूद करण्याचा प्रस्ताव विहीत प्राधिकारीकडे सादर करणे.	१५ दिवस	-
७	प्राप्त शालार्थ प्रस्तावास मान्यता देणे.	१ महिना	-

३. शालार्थ प्रणालीमध्ये नाव नोंदविण्याबाबत करावयाची कार्यवाही :-

संबंधित उपसंचालक यांच्याकडे दाखल झालेल्या शालार्थ प्रणालीमध्ये नाव नोंदविण्याबाबतच्या प्रकरणांमध्ये खालील प्रमाणे कार्यवाही करण्यात यावी:-

३.१ शालार्थ प्रणालीमध्ये नाव नमूद करण्याबाबत प्राप्त प्रस्तावाच्या तसेच प्रस्तावासोबत जोडलेल्या कागदपत्रांची छाननी करून संबंधित प्रकरणी यापूर्वी प्रदान करण्यात आलेली वैयक्तिक मान्यता चुकीची, अयोग्य व बेकायदेशीर असल्याचे संबंधित शिक्षण उपसंचालक यांचे प्रथमदर्शनी मत होत असल्यास त्यांनी त्यानुसार अंतरिम आदेश निर्गमित करणे आवश्यक आहे. सदर अंतरिम आदेशामध्ये प्रकरणातील वैयक्तिक मान्यता कोणत्या शासन निर्णयांच्या/ कागदपत्रांच्या आधारे चुकीची आहे, अशी त्यांची धारणा झाली आहे ती कारणे / कागदपत्रे सुस्पष्टपणे नमूद करून सदरहू प्रकरणी सविस्तर चौकशी करण्यात येत असल्याचे सुस्पष्टपणे सदर अंतरिम आदेशामध्ये नमूद करणे आवश्यक राहिल. त्याचप्रमाणे सदरहू सविस्तर चौकशी पूर्ण होईपर्यंत शालार्थ प्रणालीत नवीन नाव समाविष्ट करण्याचा प्रस्ताव प्रतिकाधिन ठेवावा. वरीलप्रमाणे विवक्षित प्रकरणांमध्ये सविस्तर चौकशी करण्याकरीता संबंधित कर्मचारी, संबंधित शाळा व्यवस्थापन/शैक्षणिक संस्था तसेच सदरहू प्रकरणात वैयक्तिक मान्यता प्रदान करणारे प्राधिकारी यांना सुनावणीकरीता नोटीस देऊन, त्यांचे म्हणणे ऐकून घेवून त्यानुसार सविस्तर आदेश पारीत करणे आवश्यक राहिल. सदर प्रकरणी सविस्तर चौकशीअंती संबंधित कर्मचार्यास प्रदान केलेली वैयक्तिक मान्यता योग्य असल्याची संबंधित शिक्षण उपसंचालक यांची खात्री झाल्यावर त्यानुसार संबंधित शिक्षण उपसंचालक हे त्याबाबतची कारणे सुस्पष्टपणे नमूद करून आदेश निर्गमित करतील व त्यानुसार संबंधित कर्मचार्याचे नाव शालार्थ प्रणालीमध्ये नोंदविण्याबाबतची पुढील कार्यवाही पूर्ण करतील. तथापि, सविस्तर चौकशीमध्ये संबंधित प्रकरणांमध्ये देण्यात आलेले वैयक्तिक मान्यता आदेश हे चुकीचे व बेकायदेशीर असल्याची शिक्षण उपसंचालक यांची खात्री झाल्यास, त्यानुसार सुस्पष्ट कारणे नमूद करून स्वयंत्पष्ट आदेश पारीत करणे आवश्यक राहिल. अशा प्रकरणांमध्ये चुकीच्या पद्धतीने वैयक्तिक मान्यता आदेश प्रदान केल्याबाबत सदरहू वैयक्तिक मान्यता आदेश प्रदान करणाऱ्या अधिकाऱ्याविरुद्ध विभागीय चौकशी प्रस्तावित करण्याचा प्रस्ताव शिक्षण उपसंचालक यांनी शिक्षण संचालक यांच्या मार्फत राज्य शासनास सादर करणे बंधनकारक राहिल.

३.२ शालार्थ प्रणालीच्या प्रस्तावामध्ये संबंधित कर्मचार्यास देण्यात आलेली वैयक्तिक मान्यता संदर्भाधिन क्र. १ येथील दि. ०६.०२.२०१२ रोजीच्या शासन निर्णयाच्या दिनांकापूर्वी प्रदान केलेली असल्यास अशा प्रकरणांमध्ये संदर्भाधिन क्र. ३ येथील दि.२३.०८.२०१७ रोजीच्या आदेशात नमूद केल्यानुसार केवळ Fraud, Misrepresentation or Suppression of Facts मुळे सदरहू वैयक्तिक मान्यता चुकीची असल्याचे संबंधित शिक्षण उपसंचालक यांची धारणा झाल्यास त्यानुसार त्यांनी

परिच्छेद क्र. ३.१ येथे नमूद कार्यपद्धती नुसार सुनावणीद्वारे सर्व संबंधितांना त्यांचे म्हणणे मांडण्याची योग्य संधी प्रदान करून त्यानंतरच याबाबतचे आदेश निर्गमित करणे आवश्यक राहिल. तथापि, अशा प्रकरणांमध्ये Fraud, Misrepresentation or Suppression of Facts या मुद्यांव्यतिरिक्त अन्य कोणत्याही कारणास्तव वैयक्तिक मान्यता रद्द करता येणार नाही.”

9. A perusal of the revised policy of the State Government makes it abundantly clear that authorities such as the Education Officer, Deputy Director of Education and Director of Education are required to decide proposals within a time-bound period. It is also made clear if the authorities found that the concern Officer did not perform his duties as per the guidelines framed by the State Government, then, he can be prosecuted and the Departmental Inquiry can be initiated against them.

10. In light of the above circumstances, it is clear that both the State Government and this Court have taken steps to ensure that proposals relating to teaching and non-teaching staff, forwarded for inclusion of employees' names in the Shalarth ID system, should be decided within a time-bound period. However, it is observed that despite the issuance of circulars and orders by this Court, the authorities are found reluctant to take decisions within the stipulated time frame.

11. In view of this factual as well as legal position, the group of petitions wherein the Educational Authorities are keeping the proposals pending without any *bona fide* or justified reasons are required to be

directed to decide all pending proposal within a time bound period.

12. This Court has taken judicial notice of the fact that though this Court in Several matters expressed displeasure on work and conduct of Educational Authorities, so also time and again various Government Resolutions, circulars were issued by the department, there is no improvement in the work of Educational Authorities. Every Second matter comes before this Court with a grievance that due to lethargic approach of Education Authorities, proposals of approval are pending for months together and in some cases for years, thereby the employees are deprived from their legal claim.

13. In our view in the light of lethargic approach of Educational Authorities, it would be necessary that the provisions of the Maharashtra Government Servant Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short “said Act, 2005”) and The Maharashtra Prevention of Delay in Discharge of Official Duties Rules, 2013 (for short “said Rules, 2013”) should apply strictly against the Officers who cause delay in discharge of their official duties.

14. The relevant provisions under Sections 8, 9 and 10 of the said Act, 2005 read as under :-

“8. *Citizens Charter.* (1) Every office or Department shall prepare and publish Citizens Charter within a period of six months from the date of commencement of this Act.

(2) If no final decision is taken within the period specified in the Citizens Charter by the concerned authorities, the responsibility for inaction shall be fixed on them and an action mentioned in the relevant Act, rules or regulations shall be taken against them.

9. *Delegation of Powers.* (1) The Head of every Office or Department shall publish the list of powers delegated to the subordinate officers, working under them, for taking final decision.

(2) The Head of every Office or Department shall determine as far as possible three levels of submission for taking final decision on all matters pertaining to that Office or Department.

(3) Lists of powers delegated to the subordinate officers and the levels of submission shall be prepared and published within one year from the date of commencement of this Act and shall be updated on the 1st April of every succeeding year.

10. *Disciplinary action.* (1) Every Government servant shall be bound to discharge his official duties and the official work assigned or pertaining to him most diligently and as expeditiously as feasible:

Provided that, normally no file shall remain pending with any Government servant in the Department or Office for more than seven working days:

Provided further that, immediate and urgent files shall be disposed of as per the urgency of the matter, as expeditiously as possible, and preferably the immediate file in one day or next day morning and the urgent file in four days:

Provided also that, in respect of the files not required to be referred to any other Department, the concerned Department shall take the decision and necessary action in the matter within forty-five days and in respect of files required to be referred to any other Department, decision and necessary action shall be taken within three months.

(2) Any willful or intentional delay or negligence in the discharge of official duties or in carrying out the official work assigned or pertaining to such Government servant shall amount to dereliction of official duties and shall make such Government servant liable for appropriate (disciplinary action under the All India Services (Discipline and Appeal) Rules, 1969, the] Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such employee.

(3) The concerned competent authority on noticing or being brought to its notice any such dereliction of duties on the part of any Government servant, after satisfying itself about such dereliction on the part of such Government servant shall, take appropriate disciplinary action against such defaulting Government servant under the relevant disciplinary rules including taking entry relating to such dereliction of duty in the Annual Confidential Report of such Government servant.”

15. Rules 3, 4 and 13 of the said Rules 2013, read as under :-

“3. Preparation of Citizens Charter (1) The Head of every administrative Department of Mantralaya and the heads of all offices under their administrative control, that is, the Divisional level, District level, Taluka level, sub-divisional level, or as the case may be, local level, shall prepare separate Citizens Charter for their respective offices. The separate Citizens Charter shall be consistent with the Citizens Charter of its concerned Head Office and such Citizens Charter shall be prepared and published on the basis of instructions contained in Circulars or Letters issued by the Government, from time to time, and shall be displayed at a conspicuous place in the concerned office. It shall also be displayed in electronic form on the website or portal of the Department or Government.

(2) The Citizens Charter published under the provisions of sub-rule (1), shall be updated by each office, from time to time, if necessary, and on the 2nd May of every succeeding year according to the Government revised policy or plan or programme or project or rules or orders, etc. Each office shall finalise and publish Citizens Charter after considering the objections or suggestions, if any, and after thorough discussion on the difficulties of the officers concerned and suggestions received in this behalf. It shall also be displayed in electronic form on the website or portal of the Department or Government.

(3) The prescribed papers for providing the facilities or services rendered by the office or Department shall be kept minimum. For that purpose, the Head of every office or Department shall take a detailed review. The necessary Form "A" for availing the facilities or services rendered by the office or Department shall be made easily available by the concerned office or Department free of charge. The list of the optional papers shall also be specified in Form "B" by the Head of every office or Department. It shall also be displayed in electronic form on the website or portal of the Department or Government.

(4) An application received in Form "A" from any citizen, shall be checked immediately as per the checklist provided in Form "C" regarding its fulfillment and if, after checking, the application is found to be incomplete, then the applicant shall be informed about the shortfalls immediately on the spot so that he can complete the formalities for filling the Form.

(5) If the application of the citizen is complete then he shall be given the receipt of its acknowledgment in Form "D", in which the period mentioned in the Citizens Charter of that office or Department for providing such services or facilities shall be mentioned clearly, and the office shall ensure that the citizen do not have to visit the concerned office time and again.

(6) Minimum period for providing services and facilities shall be specified taking into consideration the time limit mentioned as per concerned Acts and Rules. The concerned Head of Office, Department on noticing or being brought to his notice any dereliction in providing service and facilities will hold and complete the preliminary enquiry within fifteen working days. If it is found that the concerned officer or employee has shown habitual or willful or intentional delay or negligence in discharge of official duty, the recommendation of Departmental Enquiry shall be forwarded to the Competent Authority. The Competent Authority accordingly shall issue order of departmental enquiry as per the relevant Rules.

(7) Maximum use of information technology shall be made in the offices and e-governance shall be given highest preference while rendering facilities or services to citizens. Every administrative Department in Mantralaya in consultation with the Commissioner, or Head of Department and Head of office under them shall undertake time bound programme for providing services and facilities by way of electronic mode. The services and facilities which are to be provided by way of electronic mode to the citizens shall be determined within six months from the date of commencement of these rules. Accordingly, services like licenses, certificates, approvals or cash payment and application therefor shall be provided online. Information in this regard shall be made available on Department's website. The citizen who cannot avail online facilities shall be provided services or facilities by following the prevalent procedure.

4. *Publication of list of powers delegated to subordinate officers for taking final decision* - The list of powers of the incharge Secretary of the concerned administrative Department at the Mantralaya level, Head of the Department at the Divisional level or, as the case may be, at District level and subordinate officers who are working under their supervision at various levels or the officers who are delegated the subject wise or file wise powers for taking the final decision, shall be prepared and published and affixed at a conspicuous place in the concerned office, as provided under sub section (1) of section 9 of the Act. The said list of powers shall be updated and published on the 2nd May of every succeeding year. It shall also be displayed in electronic form on the website or portal of the Department or Government.

13. Measures for taking final decision within prescribed period - The period mentioned in section 10 of the Act for final disposal of cases is maximum and the cases shall be disposed of within that period. For avoiding delay on such cases, the following steps shall be taken, namely:-

(a) the Head of every office or Department or any other officer in whom the authority has been vested shall take a periodical review at the end of every month to ensure that the official work assigned to the Government servant is disposed of as per the norms specified in relation to his work. If such kind of standards are not specified then such standards shall be specified by the Head of every office or Department immediately:

(b) the powers shall be delegated as far as possible to the Head of every office or Department working under the administrative control of the Mantralaya Departments for taking a decision on cases. Necessary measures shall be adopted after taking of a periodical review to see that the powers delegated are exercised effectively;

(c) a review of the procedure specified for processing of cases for taking a final decision shall be taken and any modification, if necessary, shall be carried out therein.”

16. Under the provisions of the said Act, 2005 and Rules, 2013, the Chief Secretary of School Education and Sport Department is empowered to prepare a citizen charter as per Section 8 of the said Act, 2005 read with Rule 3 of the said Rules, 2013. Consequent thereupon can invoke Section 9 of the said Act, 2005 which provides delegation of powers to subordinate officers for taking final decision and published and displayed at a conspicuous place in the concerned office as per Rule 4 of the said Rules, 2013. Rules further provides responsibility of Officer and measures to be taken for keeping control on progress of work. Rule 13 of the said Rules, 2013 provides measures for taking final decision within prescribed period to avoid delay for final disposal of cases as per period

mentioned in Section 10 of the said Act, 2005.

17. It is brought to our notice the provisions of the said Act, 2005 and Rule 2013 though applicable to the Officers of Education Department same are not strictly implemented by Education Department. As a result, the officers are negligent to redress the grievance of citizens. As such in our opinion, the enactment of said Act, 2005 and Rule, 2013 are necessary to be strictly followed by Education Department. If same are implemented in its true letter and spirit, the employees would not require to run pillar to post for trivial work like decision on representation, proposal of Approval, proposal for promotion, proposal of Transfers etc. for months together, which Officers kept pending for months together.

18. In respect of grievance of other teachers whose proposal to include their name in Shalarth Pranali and then generate Shalarth Identity is rejected by Deputy Director of Education as well as Director of Education, it will be relevant to consider the clause 3.1 and 3.2 of G.R. dated 10th June 2022. These provisions empowers the Deputy Director of Education to reconsider the issue of approval, if *prima facie* Deputy Director of Education satisfied that order of approval granted in favour of employee found to be wrong or illegal by recording cogent reason, he can issue interim direction and keep the proposal in abeyance. Then he required to

issue show cause notice to concern employee, Management and the Officer who has granted approval. After receipt of explanation and by granting hearing opportunity, decide the proposal pending on his file. Clause 3.2 clarified that in cases where concern Deputy Director of Education is of opinion that on the count of fraud, misrepresentation or suppression of facts, approval granted in favour of employee found illegal, then by following the procedure incorporated under clause 3.1 and by granting hearing opportunity, can pass the appropriate order. It is added in this clause only on account of fraud, misrepresentation or suppression of facts, approval granted in favour of employee can be revoked by Deputy Director of Education.

19. In view of clause 3.1 and 3.2, it is now mandatory for Deputy Director of Education or Director of Education, first to record reasons on what basis his officer reach to the conclusion that there is fraud, misrepresentation and suppression of facts. By recording those reasons, it would be necessary to issue specific show cause notice to concern Employee, Management, School and Officer who has granted approval and called from them explanation on the specific issues mentioned in the show cause notice. Then by granting hearing opportunity to all of them, passed a reasoned order in the matter.

20. The importance of show-cause notice and its consequences are considered by the Hon'ble Supreme Court in case of *Commissioner of Central Excise Vs. Brandavan Beverages (P) Ltd. reported in (2007) 5 SCC 388* wherein it is held that the show-cause notice is the foundation on which Department has to build up its case. If the allegations are not specific or lack details, same amounts to not giving proper opportunity to other side to meet the allegations. Consequently, entire subsequent action stands vitiated. It would be relevant to refer paragraph no. 14 of the judgment, which reads as under :-

“14. There is no allegation of the respondents being parties to any arrangement. In any event, no material in that regard was placed on record. The show-cause notice is the foundation on which the Department has to build up its case. If the allegations in the show-cause notice are not specific and are on the contrary vague, lack details and/or unintelligible that is sufficient to hold that the noticee was not given proper opportunity to meet the allegations indicated in the show-cause notice. In the instant case, what the appellant has tried to highlight is the alleged connection between the various concerns. That is not sufficient to proceed against the respondents unless it is shown that they were parties to the arrangements, if any. As no sufficient material much less any material has been placed on record to substantiate the stand of the appellant, the conclusions of the Commissioner as affirmed by CEGAT cannot be faulted.”

21. In another judgment of co-ordinate Bench in Writ Petition No. 1491 of 2021 (*Bhushan Vikas Gawade v. The State of Maharashtra and Ors.*), this Court has held phrases ‘fraud’, ‘misrepresentation’ or

‘suppression’ are not colloquial terms, but they have a judicially recognised ambit. Observation of co-ordinate Bench, particularly in paragraph 10 is as under :-

“10. This Court in its judgment delivered on **Ansari Amina Muzhar (Supra)** after considering the Government Resolution dated 23rd August 2017, held that the said Government Resolution was issued after considering the judgment of this Court delivered on 15th August 2017 in Writ Petition No. 10133 of 2016 and order dated 14th August 2017. This Court held that the said Government Resolution restricted the power of reconsideration or review in limited circumstances of fraud, misrepresentation or suppression. The phrases "fraud", "misrepresentation" or "suppression" are not colloquial terms, but they have a judicially recognised ambit. These three factors are not to be restricted to the acts of teachers and management alone, but they can be by the authorities and by way of collusion. In such cases, the review would be permissible. For that purpose, show cause notice should mention that these factors exist.”

22. It is now well settled proposition of law that fraud has a definite meaning in law and the party against whom fraud is alleged must be proved following inquiry and tendering evidence. Mere allegation of fraud or drawing an inference of fraud will not suffice.

23. In light of this settled position of law, we are of the considered opinion that while exercising the powers by Deputy Director of education or Director of Education under Clause 3.2 and 3.3 of Government Resolution, the care is required to be taken as stated in the aforesaid paragraph, then only his decision can be considered on merits by this Court. Failure to adopt the above stated procedure or passing cryptic

order for rejection of proposal would be treated dis-obedience of the order or direction stipulated in Government Resolution dated 10th June 2022.

24. In the present matter admittedly, the Deputy Director of Education and Director of Education did not adhere the guidelines issued by State Government vide Government Resolution 10th June 2022. In some matters, no show-cause notice was served as required under the Government Policy. In cases, where show-cause notices were issued the mandate of Clause 3.2 and 3.3 of Government Resolution dated 10th June 2022 is not followed. Record of petitions no where disclosed on what basis, authorities were satisfied that there is fraud, misrepresentation or suppression of facts. Hence, impugned orders of rejecting the proposal of approval of including the name of petitioners in Shalarth Pranli are liable to be quashed and set aside.

25. At this juncture, it would be relevant to mention that co-ordinate Bench in the case of Amol Sangar (Supra) and Vijay Chavan (supra), by relying upon the Government Resolution dated 7th November 2012 has held that Deputy Director or Director can't review or revisit the issue of approval as said resolution nowhere provides reconsideration of approval while deciding the proposal of Shalarth Pranali. Said view is taken by

considering the policy framed vide Government Resolution dated 7th November 2012. However, this Court expressed abovesaid view that Deputy Director of Education or Director of Education can re-visit the proposal forwarded by Education Officer on the basis of Government Resolution dated 10th June 2022.

26. It will be also necessary to note that under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (MEPS Act) and Rules framed thereunder, there is no statutory provision that approval to each appointment is mandatory. Rule 8(2) of MEPS Rules only states that after the appointment of Teaching and Non-teaching staff, their details be forwarded within a fortnight to Education Officer or Deputy Director of Education. As such, issue of Approval is only related to release of grants received to Education Department from State Government. Education Officer / Deputy Director of Education is the person deputed by State Government to see that the grant release to the sanctioned posts in the school should be a qualified and eligible person for that post.

27. It would be relevant to refer the judgment of Hon'ble full Bench of this Court in case *St. Ulai High School and Anr. Vs. Devendraprasad*

Jagannath Singh (2007) 1 Mh.L.J. 597, wherein it is held that issue of approval is between Management and Education Authorities. For disbursement of grant-in-aid. It would be relevant to refer the relevant observations of Hon'ble full Bench under the caption of "The requirement of approval" more particularly in paragraphs 10.4 and 10.5, which read as under :-

"10.4 Rule 8(2) prescribes that after appointments to teaching and non-teaching posts are made, the names and particulars of qualifications and experience of persons so appointed shall be forwarded within a fortnight from the date of each such appointment to the Education Officer and in the case of a Junior College of Education, to the Deputy Director. Rule 8(2) is, therefore, a clear indicator of the fact that what is contemplated under the rule is the forwarding to the Education Officer of the names of the appointees together with their qualifications and experience. Neither the Act, nor the Rules impose a condition of the grant of approval to an appointment by the Education Officer. The power of appointment is regulated by the Act and the Rules and a denial of approval by the Education Officer cannot invalidate an appointment.

10.5 In several judgments of learned Single Judges of this Court, the view that has been taken is that the necessity for the management to take the approval of the Education Officer is an incident of the management seeking grant-in-aid but approval is not a condition precedent to the validity of the appointment. In *Mahatma Phule Krida Prasarak Mandal vs. Suresh T. Waghmode, Writ Petition 3993 of 1999*, decided on 11th August, 1999, Mr. Justice D. K. Deshmukh, held thus:

"The matter concerning grant of approval is between the management and the Education Officer and is relevant only for the release of grant by the State Government to the management. Therefore, the School Tribunal has to decide about the nature of appointment of respondent No. 1 on the basis of the appointment order, advertisement etc. and not on the basis of the approval granted by the Education Officer."

The same view was reiterated in a judgment of Mr. Justice V. C.

Daga in *Ramchandra Ramadhar Yadav vs. Hyderabad (Sind) National Collegiate Board*, Writ Petition 467 of 1994 decided on 23rd December, 2005 [since reported in 2006(2) Mh.L.J. 530] where the learned Judge held thus:

"So far as the impugned order of the Tribunal considering the approval granted by the Education Officer to respondent No. 1 is concerned, the order of the Education Officer granting or refusing to grant approval is not relevant to decide the status of the Petitioner because the question of grant of approval is between the Education Officer and the management and the same is relevant only for the purposes of grant-in-aid by the State Government."

In *Laxman Dundappa Dhamanekar vs. Management of Vishwa Bharata Seva Samiti*, AIR 2001 SC 2836 the case before the Supreme Court arose out of the Karnataka Private Educational Institutions (Discipline and Control) Act, 1975 and the Grant-in-Aid Code. The High Court had held that since the management had not obtained the approval of the Inspecting Officer to the appointment of the appellant as Assistant Teacher, the appellant had ceased to be a teacher in the Institution. The question which fell for determination before the Supreme Court was whether there was any requirement of law for the management to obtain approval in regard to the appointment of a teacher in the institution. Under section 3 of the Karnataka Act, the State Government was empowered to make rules in respect of matters relating to Code of Conduct and conditions of service of employees. Rule 6 of the Rules framed by the State Government dealt with the method of recruitment. The Supreme Court held that the Act and the statutory Rules constitute a comprehensive Code governing appointment and the method of appointment of teachers and the provisions made thereunder could not be supplemented in the form of administrative instructions:

"The appointment and conditions of service of teachers in private Government aided institutions are governed by the provisions of the Act and the statutory rules. The said provisions are self-contained Code relating to the appointments of teachers in private aided institutions. The field relating to method of appointment of regular teacher in a Government aided institution is fully covered by the provisions of the Act and the rules and we do not find any provisions in the Act empowering the Government to supplement the rules by executive instructions."

28. In light of this legal position, in our considered opinion, it is the prerogative of State Government to frame a policy to regulate the disbursement of grant in favour of staff appointed by Management. As such, Deputy Director of Education and Director of Education can verify the proposal forwarded by Officer who has granted approval at this level. But such powers needs to be exercised only in the cases where Officers are satisfied that there is a fraud, misrepresentation and suppression of facts. In normal course, the Deputy Director of Education or Director of Education should decide the pending proposal within a time bound period as prescribed in Government Resolution dated 10th June 2022.

Accordingly, we passed the following order and directions to the respondents, as under:-

ORDER

1. The Deputy Director of Education and Director of Education are hereby directed to decide all the pending proposals of inclusion of names of the Petitioners in the Shalarth Pranali within a period 30 days from the date of production of this order, as per the time limit laid down in Government Resolution dated 10th June 2022.
2. The impugned orders passed by Deputy Director of Education of rejecting the proposal of Petitioners of inclusion of their name in Shalarth Pranli is hereby quashed and set aside. The

Deputy Director of Education and Director of Education shall verify the said proposal afresh in the light of procedure laid down in Government Resolution dated 10th June 2022 and observation recorded by this Court in the matter and decide the same accordingly within time limit as prescribed.

3. The State Government through its Secretary, School Education and Sport Department shall frame Citizen Charter as specified under Section 8 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of the said Act, 2005 read with Rule 3 of the said Rules, 2013 in term of time limit framed under clause 2.1 of Government Resolution dated 10th June 2022 with immediate effect.

4. Delegate the powers to the concerned Head of the Department to initiate Disciplinary action as provided under Sections 9 and 10 of the said Act, 2005 and Rule, 2013. Such list of concern Head to whom powers are delegated, shall be published on the website of School Education and Sport Department.

5. The Deputy Director of Education of all Regions of Maharashtra and Director of Education are hereby directed to implement the Government Resolution dated 10th June 2022 in it's true spirit while considering the proposal of inclusion of Shalarth Pranali laid down therein. Only in cases of fraud, mis-representation and suppression of fact, the finding recorded by this Court shall be observed scrupulously in addition to the guidelines laid down in Government Resolution dated

10th June 2022.

29. With these observations, the Writ Petitions stand disposed of.

[PRAVIN S. PATIL, J.]

[MADHAV J. JAMDAR, J.]