



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

WRIT PETITION No.1339 OF 2025

1. Rural Education Society for Employment and Rehabilitation in Community Health (RESEARCH), Gadchiroli, through its President.
2. Jijamata Highschool and Junior College, Iruptola, Tah-Dhanora, Dist- Gadchiroli, through its Principal.
3. Shri. Ajay Waman Alone, Aged 48 Years, Occu-Service.

R/O. C/O. Jijamata Highschool and Junior College, Iruptola, Tah--Dhanora, Dist- Gadchiroli,

: PETITIONERS

...VERSUS...

1. President/Divisional Chairman, Grievance Redressal Committee/ Divisional Education Board, Near Hislop College, Civil Lines, Nagpur.
2. Deputy Director of Education, Nagpur Division, Nagpur.
3. The Education Officer (Sec.), Zilla Parishad, Gadchiroli.

: RESPONDENTS

Mr. P.N. Shende, Advocate for Petitioners.

Mr. S.V. Narale, Assistant Government Pleader for Respondents.

CORAM

: **SMT. M.S. JAWALKAR AND
NANDESH S. DESHPANDE, JJ.**

RESERVED ON

: **06th MAY, 2026.**

PRONOUNCED ON

: **08th MAY, 2026.**

JUDGMENT : (Per : NANDESH S. DESHPANDE, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of parties.

2. The present petition prays for quashing and setting aside order dated 2/12/2024 passed by the respondent No.2 thereby refusing to grant approval to the petitioner No.3 as well as Shalarth ID to him.

3. Facts, as stated in the petition are narrated, as under :

That the petitioner No.3 possessing qualification of M.A. (Marathi), M.A. (Environment) and M.A. (Political Science), as also B.Ed. is duly eligible and qualified to be appointed as a Higher Secondary Teacher/Junior College Lecturer. For the Academic Session 2008-2009, two clear and permanent vacancies of Higher Secondary Teachers were duly sanctioned by the Education Department in the Junior College of the petitioner No.2 School. Therefore, by obtaining prior permission of the Education Department an advertisement was published on 7/5/2008. Pursuant to which petitioner No.3 made an application for the aforesaid post and an interview was conducted. Thereafter, he was appointed on 20th June, 2008.

4. It is stated in the petition that the petitioner No.2 is

running a permanent no grant-in-aid basis and the word 'permanent' was deleted by virtue of order of the State Government in the year 2013-14. Therefore, for securing the approval of the Education Department for availing the benefit of grant-in-aid facility, the petitioner Nos.1 and 2 again restarted the process of selection by publishing advertisement and the petitioner No.3 was again appointed vide order dated 22/9/2014. It is, thus, submitted that the appointment of the petitioner No.3 was made after following due process of law. Thereafter, the petitioner No.2 submitted a proposal to the respondent No.2 on 31/1/2015 for grant of approval to the appointment of the petitioner No.3 as a Higher Secondary Teacher. However, no action was taken which prompted the petitioner No.3 to send reminders. Thereafter, vide order dated 2/11/2019, the respondent No.2 refused to grant approval by pointing out certain deficiencies.

5. It is the contention of the petitioner that time and again the respondent No.2, even though the deficiencies have been removed, is rejecting the approval by pointing out certain new deficiencies in the matter. Lastly, the approval was rejected on 4/12/2023, which prompted the petitioner to file an appeal before the State Government, which transferred the said appeal to the

respondent No.1 for passing appropriate orders in light of new policy of the Government as spelt out in the Government Resolution dated 27/3/2024. It is the contention of the petitioners that a detailed hearing was conducted by the respondent No.1 which included the respondent No.2. After hearing, respondent No.1 vide order dated 11/10/2024 allowed the said appeal and directed the respondent No.2 to forthwith grant its approval to the appointment of petitioner.

6. It is the contention of the petitioners that in view of the fact that the respondent No.1 which is an Appellate Authority, directing the respondent No.2 to grant approval, it was expected of the respondent No.2 to do the same. However, vide impugned order dated 2/12/2024, the respondent No.2 again refused to grant approval on a premise that the Appellate Authority has directed only to take an appropriate decision. It is this order which is impugned in the petition.

7. We have heard Mr. P.N. Shende, Advocate for petitioners and Mr. S.V. Narale, learned Assistant Government Pleader for respondents.

8. Mr. P.N.Shende, learned counsel for the petitioners submits that the order of the respondent No.2 is erroneous and you

were never granted an opportunity of hearing before passing of the same. He further submits that even on merits, the order is in contravention of the orders passed by the Appellate Authority and therefore cannot be sustained. In his submission, the impugned order smacks malice, malice in law amounts to arbitrariness, which is an antithesis to the principle of law and the impugned order is therefore cannot be said to be legally sound. He, therefore, prays for allowing the petition.

9. Per contra, Mr. S.V. Narale, learned Assistant Government Pleader for the respondent opposed the contentions made in the petition. He submits that the Appellate Authority nowhere directs the respondent No.2 to grant approval. It only states that necessary action will be taken in accordance with Rules. He, therefore, supports the impugned order.

10. We have given our thoughtful consideration to the contentions canvassed by the learned counsels for the respective parties. We have also gone through the record. The fact that time and again the respondent No.2 rejected the approval to the appointment of the petitioner is a matter of record. It can also be seen from the order of the respondent No.1 i.e. the Appellate Authority that the petitioners as also the Officers of the respondent

No.2 were present during the hearing. After hearing the parties, the matter was decided and a direction was given to the respondent No.2 to grant approval to the petitioners. The impugned order dated 2nd December, 2024 and the reasoning therein is misconceived as it erroneously records that the order of the Appellate Authority states only to proceed on the level of the Deputy Director. We highly deprecate this practice as has been reflected in the order impugned of 2nd December, 2024. It seems that the respondent No.2 has not understood the true purport of the order of the Appellate Authority, which has resulted in passing of the impugned order. The order is being grossly erroneous and in contravention of the Appellate Authority renders it perverse. We therefore no hesitation to allow the petition. We, therefore, pass the following order :

ORDER

- (i) The Writ Petition is allowed.
- (ii) The order dated 2nd December, 2024 issued by the respondent No.2, Deputy Director of Education, Nagpur Division, Nagpur is set aside.
- (iii) The respondent No.2 is further directed to forthwith grant approval to the appointment of the petitioner No.3

as well as a Shalarth ID as a Higher Secondary Teacher with effect from 5/7/2011 initially on probation and thereafter on regular and permanent basis.

(iv) Writ Petition is disposed of.

(v) Rule is made absolute in abovestated terms.

(NANDESH S. DESHPANDE, J.)

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

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