



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

WRIT PETITION NO. 7322 OF 2024

- PETITIONERS** : 1. Swargiya Radhabai Dorlikar Shikshan Sanstha, 235, New Subhedar Lay Out, Hudkeshwar Road, Nagpur, through its Secretary.
2. Ravi Madhyamik Vidyalaya, Kalamna, Nagpur, through its Headmaster.
3. Deepak Kishor Turkar, Aged 35 Years, Occ. Service, R/o. C/o. Ravi Madhyamik Vidyalaya, Kalamna, Nagpur.

//VERSUS//

- RESPONDENTS** : 1. The Deputy Director of Education, Nagpur Division, Nagpur.
2. The Education Officer, (Sec.), Zilla Parishad, Nagpur.

Mr. P.N. Shende, Advocate for the Petitioners.
Mr. A.V. Palshikar, AGP for the Respondents/State.

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

RESERVED ON : 20th SEPTEMBER, 2025.
PRONOUNCED ON : 7th OCTOBER, 2025.

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

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

2. The petitioners before this Court seek challenge to the impugned communication dated 21/06/2024, issued by respondent No.1 – Deputy Director of Education, Nagpur Division, Nagpur, thereby rejecting the proposal submitted by petitioner Nos.1 and 2 for inclusion of the name of petitioner No.3 in Shalarth ID.

3. The facts leading to the present petition are, in a narrow compass, as follows:

Petitioner No.1 is a registered Trust and Society - an Educational Institution duly registered under the provisions of the Societies Registration Act, 1860, as well as the Bombay Public Trusts Act, 1950. Petitioner No.1 runs a total of four schools, including petitioner No.2 – School, which consists of classes from 5th to 10 Standard and is a duly recognised school and further facilitated with 100% grant-in-aid from the State Exchequer. Petitioner No.3 holds the qualifications of B.A. and D.Ed., and is therefore qualified and eligible to be appointed as a Trained Graduate Teacher in any primary or secondary school. Following due process of law, petitioner Nos.1 and 2 appointed petitioner No.3 against a clear and sanctioned post as a 'Shikshan Sevak' for a period of three years on probation *vide* appointment order dated 26/07/2024. It is worth to mention here that the appointment of petitioner No.3 was made in the establishment of the school named 'Ajinkya Primary School' which is no-grant school run by petitioner No.1 – Society.

4. The appointment of petitioner No.3 was made by following the due procedure of law, i.e., by publishing an advertisement and conducting interviews. Accordingly, the proposal submitted by petitioner No.2 – School, seeking approval for the appointment of

petitioner No.3 to the post of 'Shikshan Sevak', was approved by respondent No.2 *vide* order dated 04/08/2014, which is on record at page No.19 (Annexure-I).

5. Petitioner No.3 was working in the establishment of Ajinkya Primary School, Kalmana, Nagpur, from 2014 to 2020. As per the provisions of Rule 41-A and the Scheme of the State Government dated 28/06/2016, upon a vacancy arising due to retirement in the establishment of petitioner No.2 – School, petitioner No.3 was transferred by petitioner No.1 – Management from unaided post to an aided post of Trained Graduate Teacher, which carries 100% grant-in-aid, w.e.f. 01/10/2020 *vide* transfer order dated 01.10.2020.

6. It is worth to mention here that the aforesaid transfer of petitioner No.3 from the unaided post to the aided post of Trained Graduate Teacher was approved by respondent No.2 *vide* order dated 20/02/2024, a copy of which is placed on record at page No.24 (Annexure-VI). Since the initial appointment of petitioner No.3 and the subsequent transfer from unaided to aided post was duly approved by respondent No.2 and respondent No.1, respectively, respondent No.2 submitted a proposal to respondent No.1 for inclusion of the name of petitioner No.3 in the Shalarth ID for the purpose of release of salary from the State Exchequer. However, respondent No.1, *vide* its order dated 21/06/2024, refused to include the name of petitioner No.3 in the Shalarth ID, citing certain deficiencies, including non-passing of TET examination before the cut-off date of 31/03/2019. Being aggrieved by the aforesaid communication dated 21/06/2024 issued by respondent No.1, the petitioners have approached this Court.

7. This Court, on 02/07/2025, issued notice to the respondents, in response to which the respondents have appeared and filed reply on 14/08/2025.

8. We have heard Mr. P.N. Shende, learned counsel for the petitioners, and Mr. A.V. Palshikar, learned Assistant Government Pleader for the respondents.

9. Mr. Shende, learned counsel for the petitioners, contends that petitioner No.1 runs petitioner No.2 – School, which is duly recognized. The appointment of petitioner No.3 to the post of Shikshan Sevak was duly approved by respondent No.2, as petitioner No.3 was duly qualified and the post of Shikshan Sevak was filled by petitioner No.1 by following due procedure of law. The transfer of petitioner No.3 from unaided to aided post was also duly approved by respondent No.1 *vide* order dated 20/02/2024, as it was done in accordance with the parameters of law. Therefore, respondent No.2 was not at all justified in rejecting the proposal dated 26/02/2024, submitted by respondent No.2 to respondent No.1, for inclusion of the name of petitioner No.3 in the Shalarth ID.

10. Mr. Shende, learned counsel for the petitioners, contends that once the approval for the appointment of petitioner No.3 is granted, his name should have been included in the Shalarth ID. He has placed reliance upon the order dated 26/02/2025 of this Court in ***Writ Petition No.3637/2024 (Sant Sai Baba Shikshan Sanstha Vs. The State of Maharashtra and Ors along with connected matter)***.

11. Mr. Palshikar, learned Assistant Government Pleader appearing for the respondents, supports the impugned communication and contends that the proposal dated 26/02/2024 has been rightly rejected by respondent No.1 due to the deficiencies mentioned therein. The deficiencies from Serial Nos.1 to 9 are mentioned in the impugned communication dated 21/06/2024.

12. Per contra, Mr. Shende, learned counsel for the petitioners, submits that all the deficiencies from Serial Nos.1 to 9, except Serial No.2, have been duly removed by the petitioners, and accordingly, the compliance report has been submitted on 09/08/2024, which is on record at page No.20 (Annexure-VIII). Despite the deficiencies having been removed by the petitioners, respondent No.1 has not yet included the name of petitioner No.3 in the Shalarth ID on the ground that petitioner No.3 has qualified the TET examination on 10/01/2023, i.e., after the cut-off date of 31/03/2019.

13. Having perused the impugned communication dated 21/06/2024 and after hearing the learned counsels for the parties, the limited, issue which falls for our consideration, is whether the name of petitioner No.3 should have been included by respondent No.1 in the Shalarth ID.

14. The petitioners have specifically contended that petitioner No.2 is a recognized school receiving 100% grant-in-aid from the State Exchequer, and that petitioner No.3 is a duly qualified candidate. Petitioner No.3 was appointed by following due procedure of law, and hence his appointment is duly approved by respondent No.2. Having once approved the appointment of petitioner No.3,

respondent No.1 was not at all justified in rejecting the proposal submitted by respondent No.2 for including the name of petitioner No.3 in the Shalarth ID.

15. A similar issue came before this Court in Writ Petition No.3637/2024 (cited supra), wherein this Court, while deciding the aforesaid representation *vide* its order dated 26/02/2025, has held thus:

“2. In both these Petitions the orders passed by the Respondent No.2 rejecting the inclusion of the names of the Petitioners in Shalarth ID are being questioned. The rejection as is discernible from the order of the Deputy Director of Education is clause 4 of the Government Resolution dated 01.04.2021 (page 61), however, what is material to note is that the Education Officer by his order dated 21.11.2022 in Writ Petition No.3637/2024 (page 41) and 19.07.2022 in Writ Petition No.3746/2024 (page 27), has already granted approval for transfer of the Petitioners from unaided to aided section of the School run by the same Management.

3. Once the approval has been granted by the Education Officer, which is not disputed, is still in force, the Deputy Director of Education cannot refuse to include the names of the Petitioners in the Shalarth ID for the purpose of disbursing of their salary. In that view of the matter, the impugned orders passed by the Deputy Director of Education are hereby quashed and set aside and it is directed that the names of the Petitioners be included in the Shalarth ID for the purpose of disbursal of their salary and other emoluments.

4. The Petitions are accordingly allowed in the above terms. No costs.

5. Needless to say, that this shall be the position, till such time the order of approval of transfer by the Education Officer of the Petitioners from unaided to aided shall continue to remain in force.”

16. This Court, therefore, has specifically held that once approval has been granted by the Education Officer, which is not

disputed and is still in force, the Deputy Director of Education cannot refuse to include the name of petitioner No.3 in the Shalarth ID for the purpose of disbursing the salary.

17. It is pertinent to note that the Hon'ble Apex Court, in the case of ***Anjuman Ishaat-e-Taleem Trust Vs. The State of Maharashtra & Ors. (2025 SCC OnLine SC 1912)***, while dealing with the issue of applicability of the TET to in-service teachers, has held in paragraph 217 as under:

“217. Insofar as in-service teachers recruited prior to enactment of the RTE Act and having more than 5 years to retire on superannuation are concerned, they shall be under an obligation to qualify the TET within 2 years from date in order to continue in service. If any of such teachers fail to qualify the TET within the time that we have allowed, they shall have to quit service. They may be compulsorily retired; and paid whatever terminal benefits they are entitled to. We add a rider that to qualify for the terminal benefits, such teachers must have put in the qualifying period of service, in accordance with the rules. If any teacher has not put in the qualifying service and there is some deficiency, his/her case may be considered by the appropriate department in the Government upon a representation being made by him/her.”

18. The date of the aforesaid judgment is 1st September, 2025, and therefore the Hon'ble Apex Court has already extended the time limit for qualifying the aforesaid examination for two years from the date of the judgment in order to continue in service. Petitioner No.3 had already qualified the TET examination on 10/01/2023. However, the proposal for inclusion of the name of petitioner No.3 in the Shalarth ID has been rejected solely on the ground that he failed to clear the TET examination before the cut-off date of 31/03/2019. Therefore, the benefit of the extension of the time limit for qualifying the TET examination granted by the Hon'ble Apex Court is in the

interest of petitioner No.3.

19. The facts of the present case are completely identical to the aforesaid case i.e. Writ Petition No.3637/2024 (cited supra). The approval granted by respondent No.2 - Education Officer is still holding the field and has neither been cancelled nor disputed by the respondents. The petitioners have made a specific statement on oath in the memo of this petition that they, *vide* communication dated 09/08/2024, have removed all the deficiencies cited by respondent No.1. However, despite the removal of all the deficiencies, respondent No.1 has not included the name of petitioner No.3 in the Shalarth ID. The aforesaid statement made by the petitioners is not controverted by the respondents.

20. In the circumstances, the present writ petition is squarely covered by the order of this Court dated 26/02/2025, passed in Writ Petition No.3637/2024 (cited supra). Petitioner No.3 is deprived of the benefit of regular salary as a Trained Graduate Teacher due to non-inclusion of his name in the Shalarth ID. Therefore, we proceed to pass following order:

ORDER

- (a) The writ petition is **allowed**.

- (b) The impugned communication dated 21/06/2024, issued by respondent No.1 – Deputy Director of Education, Nagpur Division, Nagpur, thereby rejecting the proposal dated 26/02/2024 submitted by respondent No.2 – Education Officer (Secondary), Zilla Parishad, Nagpur, is hereby quashed and set aside.

(c) Respondent No.1 is directed to forthwith include the name of petitioner No.3 in the Shalarth ID and to release the regular salary of petitioner No.3 on 100% grant-in-aid w.e.f. 01/10/2020, and continue to pay the regular salary of petitioner No.3 on the basis of 100% grant-in-aid, if there is no other legal impediment.

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

(RAJ D. WAKODE, J.)

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

Vijaykumar