IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8615 OF 2023

Vitthal s/o Dilip Pungle
Age : 23 years, Occu: Service as Junior Clerk,
R/o Dhawalapuri, Tq and Dist. Aurangabad ...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
School Education Department,
Mantralaya, Mumbai – 32

2. Deputy Director of Education,
Aurangabad Division, Aurangabad.

3. The Education Officer (Primary),
Zilla Parishad, Jalna

4. Janta Shikshan Prasarak Mandal
Jalna, Tq. and Dist. Jalna.
Through its Secretary

5. Janta Primary School,
Gavali Mohalla, Old Jalna,
Tq. and Dist. Jalna
Through its Head Master ...Respondents

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Mr. V. S. Panpatte, Advocate for the Petitioner.
Mr. B. B. Bhise, AGP for Respondent Nos. 1 and 2
Mr. Aniruddha S. Usmanpurkar, Advocate for Respondent No.3
Mr. I. D. Maniyar, Advocate for Respondent Nos. 4 and 5

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CORAM : NITIN B. SURYAWANSHI AND
ABASAHEB D. SHINDE, JJ.

RESERVED ON : 16.06.2026

PRONOUNCED ON : 06.07.2026

**ORDER :- (Per Abasaheb D. Shinde J.)**

1. Heard.

2. Rule. Rule is made returnable forthwith. With the consent of the parties the writ petition is heard finally at the stage of admission.

3. By this petition, the petitioner has put forth the following main reliefs :-

> *"B. By a writ of certiorari or any other appropriate writ or direction in the like nature, the order dated 10.12.2021 (at Exhibit "G") issued by the Respondent No.3 may please be quashed and set aside;*
>
> *C. By a writ of mandamus or any other appropriate writ or direction in the like nature, the Respondent No.3 may please be directed to grant approval to the appointment of the petitioner as Junior Clerk in the Respondent No.5-School w.e.f. 12.12.2016 to 11.12.2019 and thereafter in regular pay scale w.e.f. 12.12.2018 onwards and further may please be directed to the respondent no.2-Deputy Director of Education to include his name in Shalarth System within a period of two weeks and thereafter release arrears of salary of the petitioner within a period of six weeks."*

4. Learned Advocate for the petitioner submits that Respondent No.4 is an Educational Trust which is running Respondent No.5 - Primary School. Pursuant to advertisement published by Respondent Nos.4 and 5 dated 30.11.2016, the petitioner participated in the selection process and after finding him eligible for the post of Junior Clerk, Respondent Nos.4 and 5 issued appointment order in favour of the petitioner on

13.12.2016 to the said post. Accordingly, Respondent Nos.4 and 5 submitted the proposal seeking approval to the appointment of the petitioner to Respondent No.3-Education Officer (Primary), Zilla Parishad, Jalna. By the impugned order, Respondent No.3-Education Officer (Primary), Zilla Parishad, Jalna rejected the said proposal holding that the appointment of the petitioner is made during the period of ban imposed vide Government Resolution dated 11.12.2020.

5. Learned Advocate for the petitioner relying on the order passed by this Court on 10.02.2026 in the case of ***Yashwant s/o Jaisingh Ahire Vs. The State of Maharashtra and Others*** (Writ Petition No.3117 of 2023) would submit that the petitioner has been appointed on the post of Junior Clerk w.e.f. 12.12.2016 and therefore the ban imposed vide Government Resolution dated 11.12.2020 is not applicable nor the said Government Resolution can be given retrospective effect. He, therefore, urged that by setting aside the impugned order, Respondent No.3 be directed to grant approval to the appointment of the petitioner w.e.f. 12.12.2016 to 11.12.2019 by directing the respondents to grant consequential benefits.

6. Per contra, learned Advocate appearing for Respondent No.3 submits that pursuant to the provisions of the Right of Children to Free and Compulsory Education Act, 2009, the State Government has issued Government Resolution dated 11.12.2020 by which a ban was imposed on recruitment of the employees in different Educational Institutions. Since appointment of the petitioner is made during ban period his appointment is illegal.

7. Learned AGP adopted the submissions advanced by the learned Advocate appearing for Respondent No.3.

8. Having heard learned Advocate for the petitioner, learned Advocate for Respondent No.3 and learned AGP for Respondent/State and after perusal of record, we find that admittedly the appointment order of the petitioner is dated 13.12.2016, whereas the Government Resolution imposing ban on recruitment is dated 11.12.2020. Therefore, the said Government Resolution cannot be given retrospective effect. In the case of ***Yashwant s/o Jaisingh Ahire (supra)*** this Court while dealing with identical issue observed in paragraph No.5, 6 and 9 which reads thus :-

*"5. Learned counsel submits that the impugned order relies upon*

*the Government Resolution dated 12.02.2015 and the Government Resolution dated 11.12.2020 for rejecting the proposal seeking approval to the petitioner's appointment. Learned counsel has placed reliance upon the judgment dated 09.12.2024 in Writ Petition No. 6355 of 2023 and order dated 11.03.2022 in Writ Petition No. 5241 of 2021, wherein, in identical facts, directions were issued by this Court to grant approval to the appointments as it was held that the Government Resolution dated 12.02.2015 would not apply retrospectively.*

*6. Consideration of the record of the present matter, it is apparent that the appointments of the petitioners were made in the years 2011 and 2012 and the proposal seeking approval was submitted in the year 2013 much prior to the Government Resolution dated 12.02.2015 and the Government Resolution dated 11.12.2020.*

*9. Impugned order dated 19.07.2022 is quashed and set aside. Respondent No. 3 – Education Officer is directed to grant approval to the appointments of the petitioners to the post of Peon, Class-IV, from the respective dates of appointment within six weeks. Respondent No. 3 is further directed to grant consequential benefits including insertion of names in Shalarth Pranali to release salary."*

9. In the light of above, we find that the impugned order is unsustainable and therefore deserves to be quashed and set aside. The Writ Petition accordingly stands allowed in terms of prayer clauses 'B' and 'C'.

10. Rule is thus made absolute in above terms for no order as to costs.

( ABASAHEB D. SHINDE, J. ) ( N. B. SURYAWANSHI, J. )

*Narwade*