

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

101 WRIT PETITION NO.13509 OF 2018

**SANTOSH RAVINDRA PANCHAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mr. Choudhari Abhijit G
AGP for Respondent : Mr. P.K. Lakhotiya
Advocate for Respondent Nos. 5 and 6: Mr. Bhise Bhausahab B

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**CORAM : S. V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 29/07/2019

PER COURT :

1. Mr. Chaudhari, the learned counsel submits that this petitioner is transferred from unaided to aided post. The Education Officer approved the transfer of the petitioner from unaided to aided post. The learned counsel submits that appointment of the petitioner on unaided post were also approved by the Education Officer. The approval was granted by the Education Officer on 23.12.2015. The respondent under letter dated 28.12.2015 canceled the said approval and same was communicated to the petitioner first time in the year 17.11.2018. The learned counsel submits that the transfers from unaided to aided is permissible.

2. The learned AGP submits that at the relevant time the proposal seeking approval to the appointment of the other teachers of the petitioner institution on grant in aid basis was also pending. The post sanctioned were only 55, however, without considering the same, the approval were granted. The learned AGP further contents that there are large number of surplus candidates also absorbed.

3. According to the learned counsel for the Management, the staffing pattern is subsequently corrected and now the sanctioned posts are 63.

4. We have under our order dated 04.07.2019 in Writ Petition No.1493/2018 had given directions for grant of approval to these transfers from unaided to aided post. The respondents would not be in a position to raise the plea of surplus teachers. Of course, the respondent will have to consider the availability of post, the roster.

5. Considering the above, impugned order is quashed and set aside. The respondents shall consider about the availability of post on which the petitioners are appointed and if the aided post to which the petitioners are transferred are available, the respondent shall grant approval to the appointment of the petitioner.

6. In case the approval is granted in favour of the petitioner the consequences would follow. The same shall be done by the

Education Officer within 3 months. Writ petition is accordingly disposed of no costs.

(MANGESH S. PATIL, J.)

(S. V. GANGAPURWALA, J.)

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