

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

WRIT PETITION NO.768 OF 2019

SAMBHAJI VASANTRAO SHINDE
VERSUS
RURAL EDUCATION SOCIETY MURUD THROUGH PRESIDENT AND
OTHERS

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Advocate for Petitioner : Shri Mayur V. Salunke h/f Shri Salunke V.D.
AGP for Respondents 3 and 4 / State : Shri S.P.Tiwari
Advocate for Respondents 1 and 2 : Shjri Bhausheb B. Bhise

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**CORAM : S.V. GANGAPURWALA
&
SHRIKANT D. KULKARNI, JJ.**

DATE :- 28th January, 2020

Per Court :-

1 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 the appointment of the petitioner on unaided post was also approved by the Education Officer. The approval was granted by the Education Officer on 23.12.2015. The respondents under letter dated 28.12.2015 canceled the said approval and same was communicated to the petitioner first time on 28.11.2018. The learned counsel submits that the transfer 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 posts sanctioned were only 55, however, without considering the same, the approval was granted. The learned AGP further contents that large number of surplus candidates are to be 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 laid down the guidelines for grant of approval to transfers from unaided to aided posts. The respondents would not be in a position to raise the plea of surplus teachers. Of course, the respondents will have to consider the availability of posts and 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 petitioner is appointed and if the aided post to which the petitioner is transferred is available, the respondents 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 THREE months from today. Writ petition is, accordingly , disposed of. No costs.

kps

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)