

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

WRIT PETITION NO. 1851 OF 2020

Swapna Vishwanath Nirmal and anr.

..Petitioners

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.H. Dighe, Advocate for petitioners

Mr S.K. Tambe, A.G.P. for respondents no.1 and 2

Mr S.T. Shelke, Advocate h/f Mr S.S. Wagh, Advocate for respondent no.3

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

DATE : 28th October 2020

PER COURT:

1. The proposal seeking transfer of the petitioners from unaided to aided posts is rejected.
2. The learned Counsel for the petitioner and respondent - Management submit that appointments of the petitioners for unaided posts have been approved by the Education Officer. These petitioners were transferred from unaided to aided posts in the year 2018 on the clear vacant posts. Petitioner no.1 is from Other Backward Class category and petitioner no.2 is from open category. The Education Officer erroneously relied upon the Circular dated 28.06.2016 and on the ground of non-availability of open category post has rejected the proposal. As per the roster, the post was available.
3. The learned A.G.P. submits that considering the documents placed on record before the Education Officer, the Education Officer has correctly passed the order.

4. This Court in its judgment dated 4.7.2019 in Writ Petition No. 1493 of 2018 with connected Writ Petitions has held that some of the clauses of Circular dated 28.6.2016 do not apply.

5. As far as the availability of the vacant posts are concerned, the petitioners and Management may apprise the Education Officer of the vacant posts available as per the roster and staffing pattern. It is for them to place the documents on record before the Education Officer.

6. Considering the above, we pass the following order.

- ORDER -

(I) The impugned order is quashed and set aside.

(II) The Education Officer shall reconsider the proposal seeking approval to the transfer of the petitioners from unaided to aided posts in tune of the judgment of this Court dated 4.7.2019 in Writ Petition No. 1493 of 2018 with connected Writ Petitions.

(III) The petitioners and the Management may also place on record the approved roster before the Education Officer along with all the documents.

(IV) The Education Officer shall, after going through the documents decide the proposal afresh expeditiously, preferably within four months.

7. Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)