

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

WRIT PETITION NO. 12052 OF 2019

Nichal Vishal Vijay and others

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Mr. Shivaji T. Shelke, Advocate for Petitioners.

Mr. P. S. Patil, Addl. G. P for Respondent Nos. 1 and 2.

Mr. Ashwin V. Hon, Advocate for Respondent No. 3.

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

DATED : 23rd JANUARY, 2020.

PER COURT:-

. The proposal seeking approval to the transfer of the petitioners from unaided to aided is rejected.

2. We have heard Mr. Shelke, learned counsel for the petitioners.

3. Mr. Patil, learned Addl. G. P. submits that as the petitioners are appointed / transferred to the aided division after the Government Resolution dated 23.06.2017, their cases cannot be considered. They are not fulfilling the terms and the conditions of the Government Resolution dated 23.06.2017. As per the Government Resolution the scheme of Pavitra Portal in the Maharashtra State is implemented.

4. All these petitioners are appointed in the year 2014 and their appointments are approved by the Education Officer. They were all appointed on aided post with effect from 01.01.2019. These petitioners are transferred to the aided posts. All these petitioners were working as Assistant Teachers on unaided post prior to the transfer. The proposal seeking approval to the transfer of the petitioners from unaided to aided is rejected basically on the ground that as per the Government Resolution dated 23.06.2017 the scheme of Pavitra Portal is implemented and the said terms and conditions are required to be complied with.

5. It is not that the petitioners are appointed afresh on the aided posts. The petitioners are appointed in the year 2014 and prior to 2014. Rule 41 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 authorizes the management to transfer the persons from one school to another if it runs more than one school.

6. The Division Bench of this Court in Writ Petition No. 1493 of 2018 with connected writ petitions under judgment and order dated 04.07.2019 (to which one of us S. V. Gangapurwala, J. was a party) had observed about the rights of the management to transfer the employees. Even the circular dated 28.06.2016 has been considered at

length. The Education Officer is required to consider the seniority, adherence to roster, the qualification. The said circular would not affect the right of the management to transfer the employees. All these employees are appointed on earlier date.

7. Considering the above, the impugned order is quashed and set aside. The Education Officer shall reconsider the proposal seeking approval to the transfer of the petitioners from unaided to aided post. The same shall be decided in tune with the judgment delivered by this Court in Writ Petition No. 1493 of 2018 with connected writ petitions dated 04.07.2019. The same shall be decided expeditiously and preferably within a period of four (04) months from today.

8. Writ petition accordingly is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.