

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.590 OF 2020

Darshana Prabhakar Sable ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

**WITH
WRIT PETITION NO.591 OF 2020**

Dipmala Manohar Patil ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

**WITH
WRIT PETITION NO.592 OF 2020**

Pradip Bhikaji Berde ...Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

...

Mr. Narendra Bandiwadekar a/w. Mr. Vinayak Kumbhar i/b.
Ms. Ashwini Bandiwadekar for the Petitioners in all WPs.
Mr. S.H. Kankal, AGP in all WPs.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED :28th SEPTEMBER, 2020.

PC.:-

Rule. Rule is made returnable forthwith. With consent,
matter is heard finally.

2. The Petitioners herein have challenged the impugned order dated 27/12/2019 whereby Respondent No.2-Education Officer has refused to grant approval to the transfer of the Petitioners from unaided post to aided post of Shikshan Sevak in the Respondent No.4-School.

3. The Petitioners had been appointed as Assistant Teachers on unaided post in schools run by the Respondent No.3-Trust. The Head Master of the School had submitted a proposal to the Respondent No.2 for approval to the said appointment. After due scrutiny the proposal was granted. The Petitioners satisfactorily completed the probation period of two years. The Petitioners claim to have become deemed permanent in service by virtue of Section 5(2) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977.

4. The Respondent No.3 prepared a seniority list of the teachers working on unaided posts. Respondent No.4-School decided to transfer the Petitioners from unaided to vacant aided posts in the same school. Accordingly, orders were issued

transferring the Petitioners as Shikshan Sevak on aided posts. The Head Master thereafter submitted a proposal to the Respondent No.2 seeking approval to the said transfer.

5. By letter dated 19/08/2019 the Respondent No.2 called upon the Head Master to submit certain documents referred to in the said letter. The Petitioners claim that the Head Master had complied with the requirement vide letter dated 03/08/2019 Exhibit-I. The Respondent No.2 thereafter fixed hearing in relation to the proposal for approval of transfer of the Petitioners from unaided to aided post.

6. The records reveal that the hearing was attended by the Petitioners, Head Mistress and Assistant Head Master. After the hearing, by the impugned order, the Education Officer has rejected the proposal mainly on the ground of non production of certain documents, which were required to be produced. It is stated that the Petitioners had already produced the said documents. Even otherwise, if any additional documents were required to be produced or submitted, the Education Officer could have given an

opportunity to the Head Master or the School Authorities to produce the same, instead of rejecting the proposal in pedantic and hyper technical manner.

7. Mr. S.H. Kankal, learned AGP submits that Education Officer will give an opportunity to the Head Master to produce the relevant documents, which are specified in letter dated 19/08/2019, copy of which is placed on record at Exhibit-H page 34 of the Petitions.

8. Mr. Bandiwadekar, learned counsel for the Petitioners submits that the Petitioners shall produce such documents before the Education Officer.

9. Under the circumstances, the Petitions are allowed. The impugned order is set aside. The matter is remitted to the Respondent No.2-Education Officer. Parties are directed to remain present before the Education Officer on 19/10/2020. Respondent Nos.3 and 4 to produce before the Respondent No.2-Education Officer the documents referred to in letter dated 19/08/2019. The Education Officer to decide the proposal on its own merits and in

accordance with law within a period of four weeks from the date of appearance.

10. Rule is made absolute in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

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