

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

965 WRIT PETITION NO.4810 OF 2021

EKNATH RAMRAO BANKAR
VERSUS
THE STATE OF MAHARASHTRA THR ITS SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Menezes Joslyen h/for Dr. Godbole R.J.
AGP for Respondents State: Mr A S Shinde
Advocate for respondent Nos.4 & 5: Mr. V B Narke

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

DATE : 17th March, 2021.

ORDER:

1. The proposal seeking approval to the transfer of the petitioner from unaided to aided is rejected.
2. Issue notice to the respondents. Learned A.G.P. waives notice for respondent Nos. 1 to 3. Mr. Narke, the learned counsel waives notice for respondent Nos. 4 and 5.
3. The proposal is rejected basically on two grounds, 1) Circular dated 28.06.2016 and 2) Backlog exists.
4. According to the learned counsel for the petitioner, the petitioner is appointed from OBC and two posts are shown for OBC under the impugned order. The learned counsel further submits that this Court, under judgment order dated 04.07.2019 in Writ Petition No. 1493/2018 with connected writ petitions, has held that some of the clauses of Circular dated 28.06.2016 do not apply. The impugned order itself suggest that two posts of OBC are vacant. Appointment order of the petitioner

demonstrates that the petitioner is appointed from OBC category. That aspect ought to have been considered. Even the approval is granted to the appointment of the petitioner from OBC on unaided post by the Education Officer. The petitioner has rendered services of more than three years on unaided posts.

5. We have, under our judgment and order dated 04.07.2019 in Writ Petition No. 1493/2018 with connected writ petitions, held that some of the clauses of Circular dated 28.06.2016 do not apply.

6. In light of that, the impugned order is quashed and set aside.

7. If the post from OBC category is vacant and available, then the respondents shall consider the proposal seeking approval to the transfer of the petitioner from unaided to aided. Of course, the Education Officer shall consider all other aspects such as seniority and qualification.

8. The proposal shall also be considered in tune with the judgment and order of this Court date 04.07.2019 in Writ Petition No. 1493/2018 with connected writ petitions.

9. The proposal shall be considered within four months.

10. Writ petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC