

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

WRIT PETITION NO. 5314 OF 2021

Omprakash Sheshrao Kalyankar .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Vitthal G. Salgare, Advocate for the Petitioner.

Mrs. Vaishali N. Jadhav-Patil, A.G.P. for Respondent Nos. 1 to 3.

The Respondent Nos. 4 and 5 are served.

**CORAM : S. V. GANGAPURWALA AND
 R. N. LADDHA, JJ.**

DATE : 04TH AUGUST, 2021.

FINAL ORDER :

. Heard Mr. Salgare, the learned advocate for the petitioner and the learned Assistant Government Pleader for respondents Nos. 1 to 3.

2. The petitioner is appointed on unaided post on 16.10.2015. The appointment of the petitioner on unaided post as Assistant Teacher is approved on 09th July, 2019. The petitioner is transferred to aided post on 22nd October, 2019. The Education Officer has approved the proposal for transfer of the petitioner from unaided to aided post, but in a phase wise grant in aid manner and as a Shikshan Sevak. The Education Officer has basically relied upon the circular dated 28th June, 2016 while passing the impugned order.

3. This Court under its judgment and order dated 04th July, 2019 in Writ Petition No. 1493 of 2018 with other connected writ petitions has held that some of the clauses of the circular dated 28.06.2016 are erroneous. It has been held by this Court that, if an employee is working as Assistant Teacher for three years or more on unaided post before his transfer on aided post and on 100% grant in aid, then the approval has to be granted on 100% grant in aid post as Assistant Teacher. The petitioner claims to have worked for more than four years on unaided post.

4. In view of the above, we pass the following order.

5. The impugned order to the extent granting approval as Shikshan Sevak is quashed and set aside. The Education Officer shall verify that the petitioner has worked for three years on unaided post as Assistant Teacher and shall also verify that the transfer of the petitioner is on 100% grant in aid post. If the Education Officer is satisfied that the transfer of the petitioner is on 100% grant in aid post and the petitioner has worked for more than three years, then approval shall be granted to the transfer of the petitioner on grant in aid post. The Education Officer shall also consider our judgment dated 04th July, 2019 in Writ Petition No.1 493 of 2018 with other connected writ petitions. The above said exercise shall be done expeditiously and preferably within a period of four (04) months from today.

6. In the light of the above, the writ petition is disposed of.
No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Aug.21