

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

WRIT PETITION NO. 6867 OF 2019

Laxman Madhavrao Jambhale

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. V. S. Panpatte, Advocate for the Petitioner.

Mrs. M. A. Deshpande, Addl. G. P for Respondent Nos. 1 and 2.

Mr. I. D. Maniyar, Advocate for Respondent Nos. 3 and 4.

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

DATED : 08th September, 2021.

PER COURT:-

1. The learned counsel for the petitioner submits that the petitioner was appointed in Junior College of Education on 18.09.2008. The management runs another secondary school. The vacancy occurred in the said school. The petitioner was transferred from the post of Lecturer in the Junior College of Education to the Secondary School on grant in aid post with effect from 18.06.2018. The said proposal is rejected on erroneous ground. The learned counsel refers to the Rule 41 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (hereinafter referred to as 'MEPS Rules').

2. The learned Addl. G. P. submits that the management did not take prior permission of the department for transfer of the petitioner. The petitioner is transferred permanently from unaided college to aided one. There is no such provision.

3. Sub rule 5 (a) of Rule 41 of the MEPS Rules permits transfer of a teacher in Junior College of Education to the Secondary School. The prohibition is that transfer cannot be against the will of the employee.

4. In view of the fact that, transfer of the petitioner is permissible. The ground on which the approval is rejected would not stand to reason. The management has right to transfer, if, the employee is agreeable from Junior College of Education to the Secondary School, of course, upon satisfying other criteria, such as, availability of the post, roster and qualification.

5. In the light of the above, the impugned order is quashed and set aside. The Deputy Director of Education shall reconsider the proposal seeking approval to the transfer of the petitioner from Junior College of Education to the Secondary School afresh. The decision shall be taken expeditiously and preferably within a period of four (04) months from today. The proposal shall not be rejected on the ground on which impugned order is passed.

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

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

RS.B.