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

1054 WRIT PETITION NO.6826 OF 2021

SULAKSHANA SANJEEVAN KHANKE

.. Petitioner

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

..Respondents

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Dr. R.J. Godbole, Advocate for the Petitioner

Mr A.R. Kale, AGP for Respondent Nos.1 to 3

Mr S.A. Deshpande, Advocate for Respondent Nos.4 & 5

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

DATE : 13-08-2021

PER COURT : -

1. The proposal seeking approval to the transfer of the petitioner from unaided to aided post is rejected. Aggrieved thereby, the present writ petition.

2. We have heard the learned Counsel for the petitioner, the learned AGP and the learned Counsel for the Institution.

3. The proposal of the petitioner is basically rejected on the ground that backlog exists of reserved category candidates and the Circular dated 28-06-2016. The Management has filed an undertaking that the Management would take steps to fill in the

backlog of reserved posts. The said undertaking is accepted and taken on record. The same is marked as “X” for identification.

4. The petitioner is transferred from unaided to aided post. It is stated that there are 14 posts of reserved candidates vacant and total vacant posts are 15. The petitioner is from general category.

5. The Education Officer ought to have considered whether the post is available for general category candidate.

6. The undertaking is filed by the Management that it would fill in the reserved category posts. The same is accepted by us.

7. We had also observed in the Judgment and order dated 04-07-2019 in Writ Petition No.1493 of 2018 with connected Writ Petition, that some of the clauses of Circular dated 28-06-2016 are erroneous.

8. In light of the above, we pass the following order.

(i) The impugned order is quashed and set aside.

(ii) The Education Officer shall reconsider the proposal seeking approval to the transfer of the petitioner from unaided to aided post.

It shall verify whether the post is available for the general category candidate on the aided post and if the same is available, then the proposal shall not be rejected on the ground that backlog of reserved category candidates exists.

(iii) The Education Officer shall also consider the Judgment of this Court dated 04-07-2019 in Writ Petition No.1493 of 2018 with connected writ petition.

(iv) The proposal shall be decided afresh in light of the observations made above, preferably within four months.

9. Writ Petition is disposed of. No costs.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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