

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

47 WRIT PETITION NO.7027 OF 2021

MEENA LAXMAN SIDAM

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner: Mr. Nagargoje Ankush N.

AGP for Respondents No.1&2: Mr. P. S. Patil

Advocate for Respondents No.3&4: Mr. S. K. Chavan

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CORAM: S. V. GANGAPURWALA &

M. G. SEWLIKAR, JJ.

DATE: 28th JUNE, 2021

PER COURT:

1. The proposal seeking approval to the transfer of the petitioner from unaided to aided division is granted on 40% grant-in-aid.

2. Mr. Nagargoje, learned Counsel for the petitioner submits that it ought to have been granted on 100% grant-in-aid.

3. It is submitted that the petitioner was appointed on unaided division on 28.03.2013. The appointment is approved by the Education Officer under it's order dated 14.08.2013. Thereafter, permanent approval is also granted to the petitioner on unaided post under approval order

dated 03.01.2018. upon vacancies being created on retirement of one Mr. Ramesh Khushalsing Rathod The petitioner considering the seniority was transferred to the aided post on 01.08.2020.

4. We have heard the learned A.G.P. also.

5. It appears from the approval orders placed on record that the petitioner has worked for almost 6½ years on the unaided post before being transferred to the aided post. The transfer of the petitioner on aided post is approved by the Education Officer but only on 40% grant-in-aid purportedly relying upon the Circular dated 28.06.2016.

6. We have under our Judgment and Order dated 04.07.2019 in Writ Petition No. 1493 of 2018 with connected writ petitions observed that some of the clauses of the Circular dated 28.06.2016 do not apply. We had observed that, if, the candidate has worked for more than 3 years on unaided post and if he / she is transferred on 100% grant-in-aid

post, then the approval ought to be on 100% grant-in-aid post. Of course, the Education Officer has to consider the seniority, the roster, the qualification and all other aspects.

7. The Education Officer has granted approval to the transfer of the petitioner, meaning thereby, the Education Officer is satisfied with all other aspects of qualification, roster, seniority.

8. In light of that, the impugned order to the extent of granting approval on 40% grant-in-aid is quashed and set aside. The Education Officer shall re-consider the said proposal and if he is satisfied that the transfer of the petitioner was on 100% grant-in-aid post, then the approval ought to be granted on 100% grant-in-aid. The same shall be done preferably within a period of four (04) months.

9. Writ Petition is accordingly disposed of. No costs.

[M. G. SEWLIKAR, J.]
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[S. V. GANGAPURWALA, J.]