

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

15 WRIT PETITION NO.6772 OF 2021

**ARCHANA DATTATRAYA KOLEWAD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Ms. S. L. Pansambal, Advocate h/f Mr. V. D. Gunale, Advocate for the petitioners

Mr. P. N. Kutti, AGP for the respondent/State.

**CORAM : S. V. GANGAPURWALA &
M. G. SEWLIKAR, JJ.**

DATED : 21-06-2021

PER COURT :-

1. Ms. Pansambal, learned counsel for the petitioners submits that the petitioners are appointed on unaided posts on 1st July, 2013. Their services were also approved on the unaided posts. Upon vacancy created on aided posts, the petitioners were transferred to the aided posts with effect from 1st December, 2020. The Education Officer has accorded approval to the transfer of the petitioners to the aided posts, however on 40% grant-in-aid instead of 100% grant-in-aid. The reliance is placed by the Education Officer on the circular dated 28/06/2016. The same is illegal.

2. We have heard the learned AGP for the respondent/State.

3. It appears from the record that the petitioners are appointed on unaided posts on 1st July, 2013. Their appointments are approved initially for the probation period and subsequently permanent approval is also granted. With effect from 1st December, 2020 the petitioners are transferred to the aided post.

4. The petitioners have discharged their duties for more than 7 years on unaided posts before being transferred to the aided posts. This Court in Writ Petition No. 1493 of 2018 with connected writ petitions under the judgment and order dated 04/07/2019 has held that some of the clauses of circular dated 20/06/2016 are illegal and are not in consonance with Rule 41 of the MEPS Rules.

5. In case the petitioners after rendering 7 years of service are transferred to the 100% grant-in-aid posts, they deserve to be granted approval on 100% grant-in-aid instead of 40% as granted under the impugned order.

6. In light of that the impugned order is quashed and set aside. Impugned order to the extent of granting approval on 40% grant-in-aid is set aside.

7. The Education Officer shall consider the 7 years service rendered by the petitioners on unaided posts and if the petitioners are transferred on 100% vacant grant-in-aid posts they should be granted approval on 100% grant-in-aid post.

8. We have passed this order as approval has been granted by the Education Officer to the transfer of the petitioners to the aided posts meaning thereby that the Education Officer was satisfied about the qualification, roaster and the seniority of the petitioners.

9. The aforesaid exercise shall be done within four months.

10. The writ petition is disposed of. No costs.

(M. G. SEWLIKAR)
JUDGE

(S. V. GANGAPURWALA)
JUDGE