

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

940 WRIT PETITION NO.6825 OF 2021

RAHUL ABHIMAN NERPAGAR AND ANOTHER ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...
Mr. Paresh B. Patil (Borse), Advocate for the
Petitioners.

Mr. S. P. Tiwari, AGP for Respondents-State.

...

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

DATED : 23rd JUNE, 2021.

PER COURT:-

1. The petitioners were appointed on unaided posts. The petitioner no.1 was appointed on unaided post on 14.06.2013 and petitioner no.2 was appointed on the unaided post on 14.06.2012. Their appointments on unaided posts have been approved. The petitioner nos.1 is transferred to the aided post on 01.02.2020 and petitioner no.2 is transferred on aided post on 30.04.2020. The Education Officer has granted approval to the transfer, but on phase-wise grant-in-aid.

2. We have heard Mr. Patil, learned counsel for petitioners and learned A.G.P. for respondent nos.1 to 4.

3. The Education Officer has granted approval to the transfer of petitioners from unaided to aided posts meaning thereby that the Education Officer was convinced about the eligibility and qualification of petitioners, so also the roster. While granting approval to the transfer, the Education Officer has granted transfer on phase-wise grant-in-aid, the same is subject matter of challenge in the present petition.

4. This Court in Writ Petition No.1493 of 2018 with connected writ petitions under judgment and order dated 04.07.2019 has held that some of the Clauses of the circular dated 28.06.2016 do not apply. Clause No.5-B would be one of such Clause.

5. If the petitioner is transferred on 100% grant-in-aid post after rendering more than three years of service, then he has to be considered on 100% grant-in-aid. In the present case, petitioners have discharged their services on unaided posts for more than seven year.

6. In light of that, we pass the following order:

ORDER

A. The impugned order to the extent of grant of approval to petitioners in phase-wise grant-in-aid is quashed and set aside.

B. The Education Officer shall confirm that the posts on which petitioners are transferred are on 100% grant-in-aid and if the Education Officer is satisfied that the posts on which petitioners are transferred are 100% grant-in-aid, then Education Officer shall grant approval to the transfer of petitioners on 100% grant-in-aid. The same shall be done preferably within a period of four (04) months.

7. Writ Petition is disposed of. No costs.

(M. G. SEWLIKAR)
JUDGE

(S. V. GANGAPURWALA)
JUDGE