

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

1003 WRIT PETITION NO.6395 OF 2020

**SUBHASH LAXMAN PAWAR
VERSUS
THE STATE OF MAHARASHTRA AD OTHERS**

...

Advocate for Petitioner : Mr Bondar U.b.
AGP for Respondents State: Mr S K Tambe
Advocate for Respondents 3 & 5: Mr. P. K. Nikam & M P Nikam

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATE : 11th March, 2021.

ORDER:

1. Mr. Bondar, the learned Advocate submits that the petitioner was appointed on unaided post as Assistant Teacher on 2nd July, 2014. Approval to the appointment of the petitioner was granted on 21.10.2015. Upon vacancy, the petitioner was transferred to aided post on 18.10.2019. Under the impugned order, the Deputy Director of Education granted approval to the petitioner on 20% grant in aid post relying upon the Government Circular dated 28.06.2016. According to the learned counsel, the post on which the petitioner is transferred is 100% grant in aid post.
2. Mr. Tambe, the learned A.G.P. submits that the petitioner has been transferred on aided post. The Circular dated 28.06.2016 would apply.
3. The factual matrix, it appears, is not disputed. Appointment of the petitioner on unaided post has been approved under the order passed by the Deputy Director of Education on 21.10.2015. The petitioner had rendered more than 3 years of service before he is transferred to aided posts on 18.10.2019.

4. This Court, under its order dated 04.07.2019 in Writ Petition No. 1493/2018 with connected writ petitions, has held that some of the clauses of Circular dated 28.06.2016 would not apply.
5. In case the petitioner is transferred on 100% grant in aid post after rendering service of 3 years on unaided post, then approval has to be granted to the petitioner on 100% grant in aid post.
6. In light of that the impugned order, to the extent of granting approval on 20% grant in aid, is quashed and set aside.
7. The Deputy Director of Education shall consider the past services rendered by the petitioner on unaided post and if the petitioner has rendered more than 3 years of service on unaided post and has been transferred on 100% grant in aid post, then the approval shall be granted by the Deputy Director of Education on 100% grant in aid post. The same shall be done preferably within four months.
8. Writ petition is accordingly disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC