

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

78 WRIT PETITION NO.8243 OF 2021

**DINESH DILIPRAO BARGAJE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner: Dr. Godbole R. J.

AGP for Respondents No. 1 to 3:

Mrs. M. A. Deshpande

Advocate for Respondents No. 4&5:

Mr. Shantanu Deshpande

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

DATE: 02nd AUGUST, 2021

PER COURT:

1. We have heard Mr. Godbole, learned Counsel for the petitioner.

2. The learned A.G.P. accepts notice for the respondents no. 1 to 3 and supports the order passed by the Education Officer.

3. It appears from the record that the petitioner was appointed on 08.01.2015 as an Assistant Teacher on unaided post. The appointment of the petitioner on unaided post is approved by

the Education Officer under it's order dated 11.02.2021. The petitioner is transferred to the aided post on 13.06.2019. The proposal seeking approval to the transfer on the aided post is rejected basically on the basis of Circular dated 28.06.2016, stating that there are surplus teachers available in the District.

4. This Court under it's judgment and order dated 04.07.2019 in Writ Petition No. 1493 of 2018 with connected writ petitions had observed that some of the clauses of Circular dated 28.06.2016 are erroneous. The management under Rule 41 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 has got power to transfer an employee from unaided to aided post.

5. In light of that, the impugned order is quashed and set aside. The Education Officer shall re-consider the proposal seeking approval to the transfer of the petitioner from unaided to aided post in light of the judgment and order of this

Court dated 04.07.2019 in Writ Petition No. 1493 of 2018 with connected writ petitions. The said proposal shall not be rejected on the ground on which the impugned order is passed. The proposal shall be decided expeditiously and preferably within a period of four (04) months.

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

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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