

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

946 WRIT PETITION NO.7640 OF 2021

SAYYED NASIR SAYYED MUNIR

.. Petitioner

VERSUS

THE STATE OF MAHARASHTRA
THR ITS SECRETARY AND OTHERS

..Respondents

...

Advocate for Petitioner : Mr Chandrakant K. Shinde
AGP for Respondent Nos.1 & 2 : Mr S.G. Karlekar

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

DATE : 14-07-2021

PER COURT : -

1. We have heard Mr Shinde, learned Advocate for the petitioner and Mr Karlekar, learned AGP for respondent nos.1 and 2.

2. The learned Advocate for the petitioner submits that, the petitioner was appointed as an assistant teacher on 10-10-2012 on an unaided post. The appointment of the petitioner on unaided post is approved by the Education Officer. On or about 03-01-2018 the petitioner was transferred to the aided division. The approval has been granted to the transfer of the petitioner on aided post, but on 20% grant-in-aid. The Education Officer referred to the Circular dated 28-06-2016.

3. This Court in its Judgment and order dated 04-07-2019 in Writ Petition No.1493 of 2018 with connected writ petitions held that, some of the clauses of Circular dated 28-06-2016 would not apply. It was held that, if assistant teacher has rendered service for more than three years on unaided post and thereafter transferred to the aided post then his services are to be considered as an assistant teacher on aided post and if the transfer is on 100% grant-in-aid post, the approval needs to be granted on 100% grant-in-aid. Of course, if all other criteria are satisfied.

4. In the present case, the petitioner has rendered service of more than 5 years on the unaided post before being transferred to the aided post.

5. In light of that, if the petitioner was transferred to the 100% grant-in-aid post, ought to have been granted approval of 100% grant-in-aid post.

6. The impugned order to the extent of granting approval to the petitioner for his transfer to the aided post is set aside to the extent of 20% grant-in-aid.

7. The Education Officer shall confirm that the transfer of the petitioner is on 100% grant-in-aid post and if he satisfied that the transfer of the petitioner is on 100% grant-in-aid post, then shall grant approval to the petitioner on 100% grant-in-aid post from the date of the transfer of the petitioner to the aided post.

8. The same shall be done expeditiously and preferably within four months.

9. Writ Petition is disposed of. No costs.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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