

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

918 WRIT PETITION NO. 8257 OF 2021

**SANDEEP PREMCHANDRA BODHANKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioners : Mr. S.R. Kolhare.
AGP for Respondent Nos. 1 & 2 : Mr. S.K. Tambe.

**CORAM : S.V. GANGAPURWALA &
R.N. LADDHA, JJ.
DATED : 03.08.2021**

PER COURT :

The proposal seeking approval to the transfer of the petitioner from unaided to aided post is rejected solely on the basis of circular dated 28.06.2010, *inter alia* on the ground that there are surplus teachers available.

2. The learned AGP waives notice for respondent Nos. 1 and 2.

3. This Court under its judgment and order dated 04.07.2019 in Writ Petition No. 1493/2018 with other connected Writ Petitions, had observed that the Management is within its powers to transfer the employee from unaided to aided post subject to the availability of the post, seniority, roaster, qualification and the availability of surplus teachers would not be a ground in not enabling the Management to

exercise its powers of transfer under Rule 41 of the MEPS, Rules.

4. In light of that the impugned order is quashed and set aside. The Education Officer shall consider the proposal seeking approval to the transfer of the petitioner from unaided to aided post afresh on its own merits. The Education Officer shall consider the qualification, seniority list, roaster and all the relevant aspects. The said proposal shall be decided expeditiously and preferably within period of six months from today. The proposal shall not be rejected on the ground on which the impugned order is passed.

5. Writ Petition is disposed of. No costs.

(R.N. LADDHA, J.)

(S.V. GANGAPURWALA, J.)