

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO.8482 OF 2021

1. Datta s/o Govindrao Pawar,
Age: 41 years, Occu.: Services,

2. Anusaya Baburao Ayanele,
Age: 43 years, Occu.: Services,

3. Neema Shridharrao Kadam,
Age: 29 years, Occu.: Services,

All R/o: Shivaji Vidyalaya, CIDCO,
Nanded, Tq. & Dist. Nanded.

... PETITIONERS

VERSUS

1. The State of Maharashtra,
Through Principal Secretary,
School Education Department,
Mantralaya State, Mantralaya,
Mumbai-32

2. Director of Education (Secondary),
Maharashtra State,
Pune.

3. Deputy Director of Education (Secondary),
Latur Division, Latur.

4. Education Officer (Secondary),
Zilla Parishad, Nanded,
Tq. & Dist. Nanded.

... RESPONDENTS

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Mr. Vikram S. Kadam, Advocate for Petitioners.

Mr. A. R. Kale, AGP for Respondents/State.

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

DATE : 05th August, 2021.

ORAL JUDGMENT: (Per S. V. Gangapurwala, J.)

. Rule. Rule made returnable forthwith.

2 The learned AGP accepts notice of Rule for all Respondents.

3 We have heard the learned counsel for petitioners and the learned AGP for the respondents.

4 Petitioner Nos.1 and 2 claimed to have been appointed on unaided post on 1st February, 2013 and Petitioner No.3 on 1st August, 2013. Petitioner No.1 is transferred to the aided post on 11th July, 2019 and Petitioner Nos.2 and 3 are transferred to the aided post on 14th September, 2019. The proposal seeking approval to the transfer of the petitioners from unaided to aided post is approved, however, on 20% grant-in-aid post. The grievance of the petitioners is that the

petitioners are transferred on 100% grant-in-aid post and their approval ought to have been on 100% grant-in-aid.

5 The Education Officer while passing the order granting approval in phase wise manner, has relied upon the circular dated 28th June, 2016.

6 This Court in its judgment and order dated 4th July, 2019 in Writ Petition No.1493 of 2018 with connected writ petitions, has observed that if the employee has worked for three years or more on unaided post before his transfer to the aided post and if his transfer is on 100% grant-in-aid post, then the approval ought to be granted on 100% grant-in-aid. This Court in the said judgment and order has also considered that some of the clauses of the circular dated 28th June, 2016 are erroneous.

7 In light of the above, we pass the following order:

ORDER

I. The impugned order to the extent of granting approval on 20% grant-in-aid, is quashed and set aside.

II. The Education Officer upon verification if he is

satisfied that the petitioners have worked for three years or more on unaided post before being transferred to the aided post and are transferred to 100% grant-in-aid post, then approval ought to be granted on 100% grant-in-aid.

III. The said exercise shall be done expeditiously, preferably within four months.

IV. Rule is accordingly made absolute. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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