

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD  
1020 WRIT PETITION NO.7395 OF 2020**

RAMNATH RUSTUM UGALE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Santosh S. Dambe, Advocate for the Petitioner.

Mr. P. S. Patil, AGP for Respondents-State.

Mr. S. S. Pande, Advocate for Respondent Nos.4 and 5.

...

**CORAM : S. V. GANGAPURWALA &**

**SHRIKANT D. KULKARNI, JJ.**

**DATED : 17<sup>th</sup> FEBRUARY, 2021.**

**PER COURT:-**

1. The proposals seeking approval to the transfer of the petitioner from unaided to aided are rejected basically on the ground that backlog existed.

2. The learned Counsel for the petitioner submits that the petitioner was appointed on a clear vacant unaided post. The petitioner is the seniormost and is transferred to the aided post. His appointment on unaided post is also approved. The learned Counsel relies on the Judgment of this Court in Writ Petition No. 1493 of 2018 with connected writ petition dated 04.07.2019.

3. The learned A.G.P. submits that backlog exists in the Society where the petitioner is working, the backlog is not filled in. There are surplus candidates available. These aspects have been considered.

4. The petitioner was not seeking approval to the fresh appointment. The appointment of the petitioner on unaided posts is already approved. The authority was only required to consider as to whether the petitioner was seniormost when the petitioner was transferred to aided post, whether there are vacant posts on aided divisions and the posts are available for the open category from which the petitioner is appointed. In Writ Petition No. 1493 of 2018, we have held under Judgment dated 04.07.2019 that some of the clauses of Circular dated 28.06.2016 are illegal.

5. In light of the above, we quash and set aside the impugned order. The concerned respondent no. 2 / The Deputy Director of Education, Aurangabad Division, Aurangabad shall re-consider the proposals seeking approval to the transfer of the petitioner from unaided to aided in tune with the Judgment and order of this Court dated 04.07.2019 in Writ Petition No. 1493 of 2018 with connected writ petition. The same be decided expeditiously and preferably within four (04) months.

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

**(SHRIKANT D. KULKARNI)**  
**JUDGE**

**(S. V. GANGAPURWALA)**  
**JUDGE**