

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

WRIT PETITION NO. 1356 OF 2021

Arun s/o Anna Shinde

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Panpatte, Advocate for petitioner
Mr K.N. Lokhande, A.G.P. for respondent-State

- AND -

WRIT PETITION NO.1376 OF 2021

Kiran s/o Supadu Koli and ors.

..Petitioners

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Panpatte, Advocate for petitioner
Mrs P.V. Diggikar, A.G.P. for respondent-State

- AND -

WRIT PETITION NO. 1384 OF 2021

Laxman s/o Bhausahab More

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Panpatte, Advocate for petitioner
Mr R.V. Dasalkar, A.G.P. for respondent-State

- AND -

WRIT PETITION NO.1395 OF 2021

Rameshwar s/o Subhashrao Nagare

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Panpatte, Advocate for petitioner
Mrs P.V. Diggikar, A.G.P. for respondent-State

- AND -

WRIT PETITION NO.1401 OF 2021

Sachin s/o Subhash Bhayekar and ors.

..Petitioners

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Panpatte, Advocate for petitioners

Mr K.N. Lokhande, A.G.P. for respondent-State

- AND -

WRIT PETITION NO.1409 OF 2021

Nitin s/o Prakash Chaudhari and ors.

..Petitioners

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Panpatte, Advocate for petitioner

Mr S.G. Sangle, A.G.P. for respondent-State

- AND -

WRIT PETITION NO.1410 OF 2021

Shonak s/o Pandharinath Patil and anr.

..Petitioners

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Panpatte, Advocate for petitioner

Mr R.V. Dasalkar, A.G.P. for respondent-State

- AND -

WRIT PETITION NO. 1418 OF 2021

Vikas s/o Ashok Rathod

..Petitioner

Versus

The State of Maharashtra and ors.

..Respondents

Mr V.S. Panpatte, Advocate for petitioner

Mrs V. S.Choudhary, A.G.P. for respondent-State

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 25th January 2021

PER COURT :

1. The petitioners are transferred from unaided to aided posts.
2. The learned Counsel for the petitioners has placed on record the chart showing the date of initial appointment on unaided posts, the date of approval to the appointment on unaided posts, the date of transfer to the aided posts and the approval granted to the transfer on the unaided posts.

The same is reproduced hereunder:

Particular of petitioners

1	2	3	4	5	6	7	8
Sr. No.	WP No.	Name of Petitioner(s)	Date of Appointment	Date of approval	Date of transfer	Name of the Authority granted approval to transfer	Petitioner (s) is relied upon judgment and orders
17	1356/20	Arun Anna Shinde	15.06.2009	07.9.2012 (P.No.22)	20.6.17	20.7.18 P.No.31 Education Officer (Sec.)	1.WP No. 13676/18 & 7841/19 dt.08.8.19 (P.No.__)
34	1376/21	1. Kiran Sapadu Koli 2. Ghanshyam Bholenath Kale 3. Manisha Sukhlal Bari	17.12.2012 (P.No.24) 17.12.2012 (P.No.25) 17.12.2012 (P.No.28)	29.04.2013 (P.No.26) 29.04.2013 (P.No.27) 30.12.2013 (P.No.29)	6.06.18 P.No.32 6.06.18 P.No.33 6.06.18 P.No.34	15.6.2018 (P.No.39) 15.6.2018 (P.No.40) 15.6.2018 (P.No.41) Education Officer (Sec.)	2. WP No.6510/20 dt. 23.9.20 (P.No.__) 3. WP(St) No. 4692/20 dated 28.10.20 (P.No.__)
42	1384/21	Laxman Bhausaheb More	14.12.2012 (P.No.24)	16.05.2015 (P.No.28)	30.7.17 P.No.34	31.05.2019 (P.No.37) Education Officer (Sec.)	
52	1395/21	Rameshwar	17.06.2013	13.10.2016	01.4.19	24.02.2020	

		Subhashrao Nagare		(P.No.34)	P.No.35	(P.No.44) Dy. Director of Education	
58	1401/21	1. Sachin Subhash Bhayekar	01.07.2013 (P.No. 34)	10.02.2016 (P.No.50)	31.3.18 P.No.57	23.04.2018 (P.No.67)	
		2. Pramod Baburao Lomte	01.07.2013 (P.No. 35)	10.02.2016 (P.No.51)	08.2.18 P.No.58	16.02.2018 (P.No.69)	
		3. Jaideo Kisanrao Sonkamble	01.07.2013 (P.No. 36)	12.07.2016 (P.No.53)	08.2.18 P.No.59	14.02.2018 (P.No.71)	
		4. Shaikh Sajid Ahmed Sk. Kursheed Ahmed	20.06.2008 (P.No. 38)	17.08.2011 (P.No.55)	08.2.18 P.No.60	16.02.2018 (P.No.73) Education Officer (Sec.)	
66	1409/21	1. Nitin Prakash Chaudhari	11.01.2013	29.04.2013 (P.No. 24)	01.9.17 P.No.38	26.03.2018 (P.No.45)	1.WP. No. 13676/18 & 7841/19 (dt.8.8.19 (P.No.____)
		2. Kunal Bhagwan Mahajan	12.01.2013	29.04.2013 (P.No. 26)	01.2.17 P.No.39	26.03.2018 (P.No.46)	
		3. Mukesh Bhavadu Barde	12.01.2013	29.04.2013 (P.No. 28)	01.1.19 P.No.40	28.01.2019 (P.No.47)	2. WP No.6510/ 20 dt. 23.9.20 (P.No.____)
		4. Kapil Sarangdhar Shankhapal	15.01.2013	27.04.2014 (P.No. 30)	31.8.18 P.No.41	31.08.2018 (P.No.48)	
		5. Sunil Shivaji Ghadekar		29.04.2013 (P.No. 32)	01.6.19 P.No.42	17.09.2019 (P.No.49) Education Officer (Sec.)	3. WP(St) No. 4692/20 dated 28.10.20 (P.No.____)
67	1410/21	1. Shonak Pandharinath Patil	01.08.2009	26.12.2014 (P.No.35)	07.7.16 P.No.38	02.08.2016 (P.No.42)	
		2. Mahesh Vitthal Patil	01.08.2009	26.12.2014 (P.No.35)	07.7.16 P.No.39	02.08.2016 (P.No.43) Education Officer (Sec.)	
68	1418/21	Vikas Ashok Rathod	15.06.2009	07.09.2012 (P.No.21)	20.06.17	20.7.18 P.No.30 Education Officer (Sec.)	

3. It is submitted that in all these matters, the petitioners have worked on unaided posts for four years and more.

4. We have in our judgment dated 4.7.2019 in Writ Petition No. 1493 of 2018 with connected Writ Petitions held that some of the clauses of the Circular dated 28.6.2016 do not apply. It appears that the Education Officer, while granting approval to the appointment of petitioners as an Assistant Teacher from the date of transfer to the aided posts had granted approval on grant-in-aid in phase-wise manner to the effect that after five years, the petitioners would be granted approval on 20% grant-in-aid. The same would not be in tune with the order passed by this Court from time to time at this Bench and also at principal seat.

5. In case the petitioners are transferred on 100% grant-in-aid posts since the date of completion of three years, they shall be considered on 100% grant-in-aid posts. In case the petitioners are transferred on grant-in-aid posts, for example on 60%, then from the date of transfer, they would be on 60% grant-in-aid posts, but if the petitioners, after having completed three years on unaided posts and are transferred on 100% grant-in-aid posts, their services will have to be considered on 100% grant-in-posts. This aspect has been ignored by the Education Officer.

6. In light of above, the impugned order of granting approval in phase-wise manner is quashed and set aside and modified.

7. In case the Education Officer is satisfied about approval to the transfer of the petitioners on aided posts and if the petitioners have completed three years and more on unaided posts before they are transferred to aided posts on 100% grant-in-aid posts, then respondent - Education Officer shall

consider grant of approval to the transfer of the petitioners on 100% grant-in-aid posts within a period of six months.

8. Writ Petitions disposed of. No costs

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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