

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

902 WRIT PETITION NO.9019 OF 2021

DEEPAK GANESHRAO PETHKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Patil Kalyan V.
AGP for Respondents State : Mr. A.R. Kale

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903 WRIT PETITION NO.9020 OF 2021

DEEPA BAPURAO JAMKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Patil Kalyan V.
AGP for Respondents State : Mr. K.N. Lokhande

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904 WRIT PETITION NO.9021 OF 2021

GANESH BAJIRAO LUGARE
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. Patil Kalyan V.
AGP for Respondents State : Mr. S.P. Tiwari

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

DATED : 01/09/2021.

PER COURT :

. The proposals seeking approval to the transfers of the petitioners from unaided posts to aided posts is approved, but in phasewise grant-in-aid manner. The petitioners are assailing the order to the extent of granting approval on unaided manner.

2. The details of the petitioners, their date of appointment on unaided post, date of approval on unaided post, date of transfer to the aided post and date of approval order to the transfer is reproduced hereinunder :-

Board Sr.No.	Particulars	Date of Appointment Order	Date of approval order on unaided basis	Transfer from unaided to aided	Total service on unaided basis	Date of 20% Approval granted by Dy. Director of education Latur.
1	2	3	4	5	6	7
1.	W.P.No.9021/2021 Ganesh Bajirao Lungare V/s. The State of Maharashtra & Ors.	04.09.2012 1 st 04.09.2012 2 nd	06.11.2013 1 st w.e.f. 04.09.2012 12.01.2018 2 nd w.e.f. 04.09.2014	02.07.2019 From unaided to aided	07 years	31.12.2020 w.e.f. 02.07.2019 by Education Officer, Z.P., Nanded
2.	W.P.No.9019/2021 Deepak Ganeshrao Pethkar V/s. The State of Maharashtra & Ors.	01.07.2013 1 st 01.07.2015 2 nd	11.11.2013 1 st w.e.f. 01.07.2013 02.07.2016 2 nd w.e.f. 01.07.2015	25.01.2017 From unaided to aided	04 years	06.03.2019 w.e.f. 25.01.2017 by Education Officer, Z.P. Nanded

3.	W.P. No. 1920/2021 Sow. Deepa Bapurao Jamkar V/s. The State of Maharashtra & Ors.	05.07.2014 1 st 05.07.2016 2 nd	23.02.2017 1 st w.e.f. 05.07.2014 23.02.2017 2 nd w.e.f. 05.07.2016	16.06.2018 From unaided to aided	04 years	26.06.2020 w.e.f. 16.06.2018 by Dy. Director of Education, Latur, Division, Latur
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3. In all these matters, the petitioners have completed more than three and half years on unaided post before being transferred to aided posts.

4. If the transfer to the aided post is on 100% grant-in-aid, then in such circumstances, the approval ought to have been granted on 100% grant-in-aid post. Moreover, the transfers are prior to Government Resolution dated 1st April 2021 and so also the amendment to section 41 of MEPS Act.

5. We have under the judgment and order dated 4th of July 2019 in Writ Petition No.1493 of 2018 with connected writ petitions observed that some of the clauses of the circular dated 28.6.2016 are erroneous. The Education Officer/Deputy Director of Education has relied upon the said circular.

6. In the light of above, the impugned order to the extent of granting approval on phasewise manner is set aside. The

Education officer/Deputy Director of Education shall verify the transfer of the petitioner on 100% grant in aid post and if he is satisfied that the post on which the petitioner is transferred is on 100% grant in aid, then approval shall be granted to the petitioner on 100% grant in aid post.

7. We have passed this order as the approval has been granted to the transfers of the petitioners to the aided posts meaning thereby that the Education Officer/Deputy Director of Education was convinced about seniority, adherence to roster, qualification and other aspects. The aforesaid exercise shall be done preferably within four months.

8. Writ petitions are accordingly disposed of. No costs.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

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