

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

WRIT PETITION NO. 5143 OF 2021

Anil Radhakishan Gaware
and others

... Petitioners.

Versus

The State of Maharashtra
and others

... Respondents.

....

Mr. K.B. Borde, Advocate for the Petitioners.

Mr. P.K. Lakhotiya, A.G.P. for Respondent Nos. 1 to 3.

....

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

DATE : 23rd MARCH, 2021

PER COURT:-

1. The learned counsel for the petitioner submits that the petitioners were initially appointed on unaided post. Their appointment on unaided post is approved. Upon vacancies occurring on the aided post, the petitioners are transferred on aided post. Their transfer on aided post is also approved, but as *Shikshan Sevak*. The services rendered by the petitioners on unaided post is not considered by the Deputy Director of Education.

2. The learned counsel relies upon the judgment of this Court in writ petition No.1493 of 2018 with connected writ petitions.

3. We have heard the learned A.G.P for respondent Nos. 1 to 3.

4. The issue is no longer *res integra*. This Court, under the judgment dated 04.07.2019 in Writ Petition No. 1493 of 2018 with connected matters has held that some of the clauses of the Circular dated 28.06.2016 do not apply to the petitioners. The orders of approval to the transfer of the petitioners on aided posts are based on the circular dated 28.06.2016.

5. The services rendered on unaided post has to be considered. If the Teacher has rendered services for three years and more on unaided post and thereafter transferred on 100% grant in aid post, then his services should be approved on 100% grant in aid post. In the present case, as per the dates given by the petitioner, the petitioner Nos.1, 3 and 4 seem to have completed more than three years service on unaided prior to transfer on aided post. The petitioner No.2 had completed only two years of service and his services will have to be approved as *Shikshan Sevak* for remaining one year.

6. So far as petitioner Nos.1, 3 and 4 are concerned, they are transferred on 100% grant in aid post and have rendered services for three years and more on unaided post. Their services are required to be approved on 100% grant in aid post.

7. In the light of the above, the Deputy Director of Education shall reconsider the said aspect and pass appropriate orders within a period of four (04) months.

8. The writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P Rane