

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

49 WRIT PETITION NO.795 OF 2021

RAJSHREE RAHUL LOMTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. A.A. Mimbalkar h/f
Mr. S.V. Deshmukh
AGP for Respondent Nos.1 & 2: Mr. S.R. Yadav
...

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATED : 18th JANUARY , 2021.

...

PER COURT :

1. The proposal seeking approval to the transfer of the petitioner from unaided to aided is rejected. Mr. Nimbalkar, learned counsel for the petitioner relied upon 4th July, 2019 in Writ Petition No. 1493 of 2018 with connected writ petitions to contend that this Court has held that some of the clauses of Circular dated 28th June, 2016 do not apply.
2. Under the impugned order the proposal is rejected relying upon, the circular dated 28.06.2016 and as per the roster there are seven posts of reserved category candidates vacant.

3. We have heard the learned AGP for respondent Education Officer.

4. We have under our judgment dated 4th July, 2019 in Writ Petition 1493 of 2018 with connected writ petitions held that same of the clauses of Government Resolution dated 28th June, 2016 do not apply. Ofcourse, the Education Officer is required to consider the seniority and the availability of the vacant posts. It is submitted that the petitioner is transferred from general category. The Education Officer will be required to consider whether the post exists for general category in aided division in case

5. In light of above, we pass the following order:

ORDER

1). The impugned order is quashed and set aside. The Education Officer shall decide the proposal seeking approval to the transfer of the petitioner from unaided to aided division in tune with the judgment dated 4th July, 2019 in Writ Petition No.1493 of 2018 with connected writ petitions.

- 2). The Education Officer shall certainly consider the seniority, the availability of the post for general category. In case the post is available for general category in aided division, then the same shall not be rejected only on the ground that there are posts for reserved category also vacant.
- 3). The proposal shall be decided afresh expeditiously preferably within four months.
- 4) Writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S. V. GANGAPURWALA, J.)

vsm/-