

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

17 WRIT PETITION NO.11020 OF 2021

MALTI D/O. SUBHASH PAWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Paresh B.Patil (Borse).

AGP for Respondent/State: Mr. S. K. Tambe.

Advocate for Respondent No.4 : Mr. Maheshkumar S. Sonawane.

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

DATE : 04th October, 2021.

P.C.:

. At the request of the learned counsel for petitioner, leave to amend respondent No.4.

2 The learned AGP accepts notice for respondent Nos.1, 2 and 3. Mr. Sonawane, learned counsel waives notice for respondent No.4.

3 The proposal seeking approval to the transfer of the petitioners from unaided to aided post is allowed, but in a phase wise grant-in-aid manner.

4 We have heard the learned counsel for petitioners, the learned AGP and Mr. Sonawane, learned counsel for respondent No.4.

5 The following facts seem to be undisputed.

6 The petitioners are appointed on 15th June, 2013 on unaided post as assistant teacher. On or about 4th July, 2018 the petitioners are transferred from unaided to aided post. The transfers to the aided post are approved, however, in phase wise grant-in-aid manner.

7 The petitioners have worked on the unaided post for more than five years.

8 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.

9 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.

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

11 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.

12 Writ Petition disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]