

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

77 WRIT PETITION NO.432 OF 2021

**SHAIKH AMJAD AHMED SHUJAUDDIN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Mrs. A.N. Ansari
AGP for Respondents 1 & 2 : Mr. P.K. Lakhotiya
Advocate for Respondents 5 & 6 : Mr. Girish S. Rane
Advocate for Respondent 9 : Mr. S.P. Brahme
Advocate for Respondent 10 : Mr. A.R. Syed

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

DATED : 25/10/2021.

PER COURT :

. It is submitted by the learned counsel for the petitioners that all these petitioners are appointed on unaided posts in the year 2013-2014. All have worked for more than three years on unaided posts before being transferred to the aided posts. The services of the petitioners on unaided posts are approved. The Education Officer has granted approval to the transfer of the petitioners on aided posts, however, as a Shikshan Sevak from the date of transfer. They ought to have been granted approval as

Assistant Teachers on 100% grant in aid.

2. The learned A.G.P supports the order passed by the Education Officer and submits that on the basis of circular dated 28.6.2016 the orders are rightly passed.

3. We have also heard Mr. Rane, learned counsel for respondent Nos. 5 and 6.

4. The date of appointment of the petitioners on unaided post, date of approval on unaided post, date of transfer to aided posts are detailed in the chart herein reproduced below :-

Petitioner Nos.	Name of the Petitioner/Employee	Date of Appointment on Un Aided Basis	Date of Approval on unaided Post	Approval copy on page No.	Transfer Date from Un-Aided to Aided as a Shikshan Sevak	Date of Approval of from Un-Aided to Aided	Approval Copy on Page No.	How many years on worked on Un-Aided Basis	Name of the authority granted Approval to transfer on un aided to Aided Post
1	Shaikh Amjad Ahmed Shujaudin	17/06/2013	14/08/2013	13	01/06/2016 to 31/05/2019	16/02/2017	31 & 32	More than 3 years	Education Officer (Sec) Zilla Parishad Jalgaon.
2	Jalil Ahmed Mohammed Jamil	27/11/2012	26/04/2013	15 & 16	01/06/2016 to 31/05/2019	20/03/2018	35 & 36	More than 3 years	Education Officer (Sec) Zilla Parishad Jalgaon.
3	Imtiyaz Khan Zafar Khan	24/12/2012	25/04/2013	18 & 19	15/06/2016 to 14/06/2019	18/12/2018	38 & 39	More than 3 years	Education Officer (Sec) Zilla Parishad Jalgaon.
4	Asif Ali Yaqoob	24/12/2012	25/04/2013	18 &	15/06/2016 to	18/12/2018	38 &	More than	Education Officer

	Ali			19	14/06/2019		39	3 years	(Sec) Zilla Parishad Jalgaon.
5	Imran Ali Tayyeb Ali	01/09/2012	14/08/2013	--	01/12/2016 to 30/11/2019	01/07/2017	44	More than 3 years	Education Officer (Sec) Zilla Parishad Jalgaon.
6.	Mohamed Asif Abdul Gaffar	09/12/2013	27/08/2013	25 & 26	01/06/2017 to 31/05/2020	09/11/2017	46	More than 3 years	Education Officer (Sec) Zilla Parishad Jalgaon.
7	Azharuddin Riyazod din	18/03/2013	13/04/2013	28 &	01/06/2015 to 31/05/2018	16/08/2018	48	2 years	Education Officer (Sec) Zilla Parishad Jalgaon.

5. It would appear that all the petitioners have worked for more than three years and are transferred to the aided posts in the year 2017-18. This Court in Writ Petition No.1493/2018 with connected writ petitions under judgment and order dated 4th July 2019 held that some of the clauses of the circular dated 28.6.2016 are erroneous. If the petitioners have worked for more than three years on unaided post and transferred to aided post and the post is 100% grant in aid, then approval is to be given on 100% grant in aid basis as Assistant Teacher.

6. In the light of above, the impugned orders to the

extent granting approval to the transfer of the petitioners on the aided posts as Shikshan Sevak is set aside. The Education Officer shall verify the transfer of the petitioners on 100% grant in aid post and if the Education officer is convinced that the transfers were on 100% grant in aid posts, then the Education Officers shall grant approval to the transfer of the petitioners on aided posts on 100% grant in aid as Assistant Teacher.

7. The said exercise shall be done preferably within a period of four months.

8. We have passed the order as the Education officer approved the transfer of the petitioners on aided posts meaning thereby that the Education Officer has considered the seniority, roster and qualification of the petitioners.

9. Writ petition is disposed of. No costs.

[R.N. LADDHA, J.]

[S.V. GANGAPURWALA, J.]

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