

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

WRIT PETITION NO.11213 OF 2021

SANDIP PRAKASH BORSE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Paresh B. Patil (Borse), Advocate for the
Petitioner.

Mr. S. P. Tiwari, AGP for Respondents-State.

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

DATED : 07th OCTOBER, 2021.

PER COURT:-

1. The petitioner was appointed on unaided post as Assistant Teacher on or about 01.11.2016. His appointment on unaided post is also approved by the Education Officer under order dated 14.04.2018. The petitioner is transferred to the aided post on 01.06.2020. Under the impugned order approval was granted to the petitioner for the transfer to the aided post on honorarium.

2. 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 petitioner 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 petitioner 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.

3. In case the petitioner is transferred on 100% grant-in-aid post since the date of completion of three years, he shall be considered on 100% grant-in-aid post. In case the petitioner is transferred on grant-in-aid post, for example on 60%, then from the date of transfer, they would be on 60% grant-in-aid post, but if the petitioner, after having completed three years on unaided post and is transferred on 100% grant-in-aid post, his service will have to be considered on 100% grant-in-posts. This aspect has been ignored by the Education Officer.

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

5. In case the Education Officer is satisfied about approval to the transfer of the petitioner on aided post and if the petitioner has completed three years and more on unaided posts before the petitioner is transferred to aided posts on 100% grant-in-aid post, then respondent - Education Officer shall consider grant of approval to the

transfer of the petitioner on 100% grant-in-aid posts within a period of six months.

6. Writ Petition is disposed of. No costs

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/October-2021