

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

WRIT PETITION NO. 11314 OF 2021

Adinath Navnath Kate and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri N. S. Shah, Advocate for Petitioners.

Shri A. R. Kale, A.G.P. for Respondent Nos. 1 and 2.

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

DATE : 11TH OCTOBER, 2021.

FINAL ORDER :

. The proposal seeking approval to the transfers of petitioners from unaided to aided posts is rejected.

2. We have heard the learned counsel for petitioners and the learned Assistant Government Pleader for respondent Nos. 1 and 2.

3. The petitioners claim to have been appointed on 22.01.2017 as assistant teachers on unaided posts. Their appointments on unaided posts are approved under order dated 20.09.2019. The petitioners are transferred on aided posts on 01.02.2020. After completion of three years service, the proposal seeking approval to the transfers of the petitioners was submitted, however, same is rejected on the ground of circular dated 28.06.2016 and also on

the ground that there were directions of the Commissioner not to transfer the teachers of unaided post to aided posts under circular dated 31.03.2017 and that there was ban on recruitment and also there were directions not to grant approval under G. R. dated 04.05.2020.

4. This Court under its judgment and order dated 04th July, 2019 in Writ Petition No. 1493 of 2018 with other connected writ petitions has observed that some of the clauses of circular dated 28.06.2016 are erroneous. The Government Resolution dated 04.05.2020 would not apply as the petitioners are transferred prior to said date to the aided posts.

5. Rule 41 of the M. E. P. S. Rules would not apply to the transfers of petitioners to aided posts. Rule 41 as it stood on the date the petitioners are transferred to the aided posts permitted transfers.

6. In the light of the above, the impugned order is quashed and set aside. The Education Officer shall reconsider the proposals seeking approval to the transfers of the petitioners from unaided to aided posts in tune with the judgment dated 04th July, 2019 in Writ Petition No. 1493 of 2018 with other connected writ petitions. Of course, the Education Officer shall consider the seniority, roster and qualification of the petitioners while considering proposals for approval to their transfers to the aided posts. Said proposals be decided expeditiously and

preferably within a period of six (06) months from today.

7. In the light of the above, the writ petition is disposed of.
No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

bsb/Oct.21