

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.13904 OF 2021**

DILIP DHARMARAJ LOMATE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER..RESPONDENTS

...

Mr. Nitin K. Choudhari, Advocate for the
Petitioner.

Mr. A. R. Kale, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATED : 13th DECEMBER, 2021.

PER COURT:-

1. The petitioner is appointed on unaided post as an Assistant Teacher on 16.06.2014. The said appointment is approved by the Education Officer under order dated 29.08.2017. The petitioner is transferred to the aided post with effect from 19.06.2018. The approval has been granted to the transfer of the petitioner from unaided to aided post, however, in phase-wise grant-in-aid manner.

2. It appears that approval has been granted in phase-wise manner relying on the Circular dated 28.06.2016. This Court under it's Judgment and Order dated 04.07.2019 in Writ Petition No. 1493 of 2018 with connected writ petition held that some of the clauses of the Circular dated 28.06.2016 are erroneous.

3. The services rendered on unaided post are required to be considered.

4. The Petitioner is appointed on unaided post on 16.06.2014. It is submitted that the approval is granted to the appointment of the Petitioner on unaided post. The Petitioner is transferred to the aided post w.e.f. 19.06.2018 i.e. after rendering more than 5 years of service on the unaided post.

5. If, the Petitioner is transferred to the aided post after rendering 5 years of service on the unaided post and if the transfer is on 100% grant-in-aid post then, the approval ought to be on 100% grant-in-aid post.

6. The impugned order to the extent of granting approval in a phse-wise grant-in-aid manner is set aside. The Deputy Director of Education shall confirm for himself transfer of the Petitioner to 100% grant-in-aid post and if, the Petitioner is transferred on 100% grant-in-aid post then, the approval be granted on 100% grant-in-aid post from the date of transfer to the aided post.

7. We have passed the aforesaid order as approval is granted to the transfer of the Petitioner from unaided to aided post, meaning thereby, that the Deputy Director of Education is convinced about the qualification, seniority and roster.

8. The aforesaid be considered preferably within a period of four (04) months.

9. Writ Petition accordingly stands disposed of. No costs.

(S. G. DIGE)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/December-2021