

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

WRIT PETITION NO. 123 OF 2020

1. Dnyaneshwar s/o Chagan Pawar
2. Dnyaneshwar s/o Ratilal Chothe
3. J. T. Syed ... Petitioners

Versus

The State of Maharashtra and others ... Respondents

Mr. U. B. Bondar, Advocate for the petitioners,
Mr. S. K. Tambe, A.G.P. for the respondents, State.
Mr. P.K. Nikam, Advocate for respondent Nos. 3 and 4

CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.

DATE : 11th March, 2021.

ORDER:

1. Mr. Bondar, the learned Advocate submits that the petitioners were appointed on unaided post as Assistant Teacher on 02.07.2014. Approval to the appointment of the petitioners was granted on 21.10.2015. Upon vacancy, the petitioners were transferred to aided post on 01.02.2019. Under the impugned order, the Deputy Director of Education granted approval to the petitioners as Shikshan Sevaks relying upon the Government Circular dated 28.06.2016. According to the learned counsel, the post on which the petitioners are transferred are 100% grant in aid post.

2. Mr. Tambe, the learned A.G.P. submits that the petitioner have been transferred on aided post. The Circular dated 28.06.2016 would apply.

3. The factual matrix, it appears, is not disputed. Appointments of

the petitioners on unaided posts have been approved under the order passed by the Deputy Director of Education on 21.10.2015. The petitioners had rendered more than 3 years of service before they are transferred to aided posts on 01.02.2019.

4. This Court, under its order dated 04.07.2019 in Writ Petition No. 1493/2018 with connected writ petitions, has held that some of the clauses of Circular dated 28.06.20-16 would not apply.

5. In case the petitioners are transferred on 100% grant in aid post after rendering service of 3 years on unaided post, then approval has to be granted to the petitioners on 100% grant in aid posts.

6. In light of that the impugned orders, to the extent of granting approval to the petitioners as Shikshan Sevaks are quashed and set aside.

7. The Deputy Director of Education shall consider the past services rendered by the petitioners on unaided post and if the petitioners have rendered more than 3 years of service on unaided posts and have been transferred on 100% grant in aid posts, then the approval shall be granted by the Deputy Director of Education on 100% grant in aid posts. The same shall be done preferably within four months.

8. Writ petition is accordingly disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V.GANGAPURWALA, J.)

JPC