

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PRACHI
PRANESH
NANDIWADEKAR

Digitally signed by
PRACHI PRANESH
NANDIWADEKAR
Date: 2021.12.22
18:08:49 +0530

WRIT PETITION NO.9083 OF 2021

Vinay Govind Kulkarni & Anr.

.. Petitioners

Versus

The State of Maharashtra & Anr.

.. Respondents

Mr.Narandra Bandiwadekar a/w Mr.Vinayak R. Kumbhar i/by
Mrs.Ashwini Navjyot Bandiwadekar for the petitioners.
Mr.Vikas M.Mali, AGP for the respondents-State.

**CORAM : R.D. DHANUKA AND
R.N.LADDHA, JJ.**

DATE : 21st December 2021

P.C.:-

. Rule. Learned AGP waives service for the respondents-State.
By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioners have impugned the order dated 7th December 2020 passed by the respondent no.2 rejecting the proposal submitted by the management for up-gradation of the petitioner no.1 from the post of Part Time Teacher (English) to the post of Full Time post of Teacher (English) in the aided Junior College of the petitioner no.2.

3. Mr.Bandiwadekar, learned counsel for the petitioners placed reliance on the judgment of this Court delivered on 9th July 2021 in case of **Sadanand Krishnarao Bhosale Vs. The State of Maharashtra & Ors.** in Writ Petition No.10516 of 2018 and would submit that the issues involved in this petition are identical to the issues involved in the said writ petition. In this case, the petitioners are not seeking any appointment

to the post of full time teachers as and by way of new appointment but by way of upgradation of already appointed as part time teachers.

4. This Court in the said judgment in case of ***Sadanand Krishnarao Bhosale (supra)*** has held that the Government Resolution dated 23rd June 2017 pressed in service by the authority thus did not apply. Learned AGP could not point out any other issue against the propriety of the appointment for the said full time post claimed by the petitioners as and by way of upgradation. Learned AGP could not distinguish the judgment of this Court in case of ***Sadanand Krishnarao Bhosale (supra)***.

5. In our view, the said judgment applies to the facts of this case. We are respectfully bound by the said judgment. In our view, the impugned order is contrary to the principles of law laid down by this Court in the said judgment in case of ***Sadanand Krishnarao Bhosale (supra)***.

6. We accordingly pass the following order : -

- (i) Writ petition is allowed in terms of prayer clause (b). Rule is accordingly made absolute. No order as to costs.
- (ii) The respondent no.2 to release grant-in-aid for payment of salary to the petitioner no.1 in the pay scale within four weeks from today.
- (iii) Parties to act on the authenticated copy of this order.

R.N.LADDHA, J

R.D. DHANUKA, J.