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

WRIT PETITION NO. 14296 OF 2017

Smt. Vandana Chandrakant Pokharkar ... Petitioner

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Saurabh S. Pakale a/w. Mr. D.B. Kale i/b. Mr. Shankar M. Katkar
for the Petitioner

Mr. S.B. Kalel, AGP for the Respondent - State

Mr. Deepak R. More a/w. Mr. S.B. Deshmukh for Respondent No.3

***CORAM : S.C. GUPTE AND
SURENDRA P. TAVADE, JJ.***

DATE : 09 FEBRUARY 2021

P.C. :-

The subject matter of the controversy in the present Petition concerns approval to the Petitioner's transfer from an unaided division to the aided division of the same school. The Petitioner is aggrieved by order dated 16 October 2017, passed by the Chief Administrative Officer of the Municipal Corporation. The proposal for approval was rejected by the Administrative Officer

purportedly on the ground of the Government Resolution dated 24 June 2014, which inter-alia prevents new appointments of teachers till absorption of surplus teachers.

2. This Court has laid down in a number of cases that the ban against recruitment in the relevant Government Resolutions applies to new appointments in vacant posts and not transfers of existing teachers from unaided divisions or schools to aided divisions or schools. The learned Counsel for the Respondent – Administrative Officer as well as the Education Officer of the Zillha Parishad is unable to show any distinguishing feature of this case vis-a-vis the cases decided by our Court. Besides, in her reply to the Petition, the current Administrative Officer of the Corporation has taken a categorical stand that in view of the decision of this Court in the case of *Miss. Devkar Dipali Kisan and Ors. v/s. The State of Maharashtra and Ors. (Writ Petition No.5313 of 2017 dated 25 April 2019)*, she would consider the proposal for approval to the Petitioner's transfer afresh.

3. In the premises, this Petition may be disposed of by quashing and setting aside the impugned order dated 16 October 2017 and directing Respondent No.3 to dispose of the proposal for approval to the Petitioner's transfer in a time bound manner.

4. Accordingly, the Petition is disposed of by quashing and setting aside the impugned order dated 16 October 2017 and directing Respondent No.3 to take a decision on the proposal for approval to the Petitioner's transfer within a period of eight weeks from today.

(SURENDRA P. TAVADE, J.)

(S.C. GUPTE, J.)