

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR**

**WRIT PETITION NO.2239 OF 2020**

Sunil Bhaudeo Wakode,  
Age 39 years, Occ. Service,  
R/o Hiwarkhed, Tq. Talhara,  
Dist. Akola.

... PETITIONER

**Versus**

1. Education Officer (Secondary)  
Zilla Parishad, Akola, Office  
Behind Santoshi Mata Mandir Akola.

2. Mahatma Fule Education Society,  
Hiwarkhed, Through its President/  
Secretary, R/o Hiwarkhed (Rup.),  
Tq. Talhara, Dist. Akola.

... RESPONDENTS

Shri P. S. Patil, Advocate for the petitioner.  
Shri A.A.Madiwale, AGP for respondent no.1

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**CORAM : SUNIL B. SHUKRE &  
ANIL S. KILOR, JJ**

**DATE : JUNE 21, 2021.**

**ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J.)**

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and video quality was proper.

2. Heard. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel appearing for the parties.

3. The only reason stated in the impugned order dated 12.12.2019 passed by respondent no.1 is that there being available surplus teachers, approval to the proposed transfers of teachers could not be granted.

4. Now, it is submitted, by way of additional reasons, that despite surplus teachers, respondent no.1 rejected the proposal on the ground that the Management did not clarify as to whether or not the posts, which were proposed to be filled up by any transfer of teachers were in the excess or that the concerned teachers had cleared/passed the teachers' eligibility test. These grounds, being not there in the impugned order, cannot be considered in any way by us. At the same time, they are also of the nature as would have a material bearing upon merits of the matter and we find that it is necessary for respondent no.1 to revisit the whole issue, for which purpose, it is necessary that the impugned order is quashed and set aside.

5. Accordingly, the petition is allowed and the impugned order dated 12.12.2019 is hereby quashed and set aside. The matter

is remanded back to the respondent no.1 for taking a decision afresh, in accordance with law, which may be taken, as expeditiously as possible, preferably within four weeks from the date of receipt of this order.

6. Rule accordingly. No costs.

**(ANIL S. KILOR, J)**

**(SUNIL B. SHUKRE, J)**

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