

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

WRIT PETITION NO.3328 OF 2022

1. Vijendra s/o Uddhavrao Dhapse
Age : 34 years, Occu : Service as
Assistant Teacher, R/o. Selu,
Tq. Selu, Dist. Parbhani.
2. Prashant s/o Subhasrao Naik,
Age : 37 years, Occu : Service as
Assistant Teacher, R/o. : Selu,
Tq. Selu, Dist. Parbhani. ...Petitioners

Versus

1. The State of Maharashtra
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai – 32.
2. The Education Officer (Secondary),
Zilla Parishad, Parbhani.
3. Nutan Vidyalaya Shikshan Sanstha,
Parbhani, Tq. & Dist. Parbhani,
Through its Principal/Secretary.
4. Nutan Vidyalaya Selu,
Tq. Selu, Dist. Parbhani,
Through its Head Master. ...Respondents

AND

1. WRIT PETITION NO.3331 OF 2022

1. Sunita d/o Baburao Dahiphale
Age : 42 years, Occu : Service as
Assistant Teacher,
R/o. Shri Ram Colony, Selu,
Tq. Selu, Dist. Parbhani.
2. Shubhangi d/o Diwakar Ganjapurkar,
Age : 41 years, Occu : Service as
Assistant Teacher,

R/o. Vidyanagar, Selu,
Tq. Selu, Dist. Parbhani.

3. Varsha d/o Dattatrykadam,
Age : 39 years, Occu : Service as
Assistant Teacher,
R/o. Vidyanagar, Lecturer Colony,
Selu, Tq. Selu, Dist. Parbhani. ...Petitioners

Versus

1. The State of Maharashtra
Through its Principal Secretary,
School Education Department,
Mantralaya, Mumbai – 32.
2. The Education Officer (Secondary),
Zilla Parishad, Parbhani.
3. Nutan Vidyalaya Shikshan Sanstha,
Parbhani, Tq. & Dist. Parbhani,
Through its Secretary.
4. Nutan Vidyalaya Selu,
Tq. Selu, Dist. Parbhani,
Through its Head Master. ...Respondents

**AND
WRIT PETITION NO.3333 OF 2022**

1. Vinod s/o Ramprasad Shinde
Age : 39 years, Occu : Service as
Assistant Teacher, R/o. Selu,
Tq. Selu, Dist. Parbhani.
2. Shrikant s/o Dattatraya Newarekar,
Age : 38 years, Occu : Service as
Assistant Teacher, R/o. : Selu,
Tq. Selu, Dist. Parbhani. ...Petitioners

Versus

1. The State of Maharashtra
Through its Principal Secretary,
School Education Department,

Mantralaya, Mumbai – 32.

2. The Education Officer (Secondary),
Zilla Parishad, Parbhani.
3. Nutan Vidyalaya Shikshan Sanstha,
Parbhani, Tq. & Dist. Parbhani,
Through its Principal/Secretary.
4. Nutan Vidyalaya Selu,
Tq. Selu, Dist. Parbhani,
Through its Head Master. ...Respondents

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Mr. V.S. Panpatte, Advocate for Petitioners.

Mr. D.R. Kale, GP for Respondent/State.

Mr. Irfan D. Maniyar, Advocate for Respondent Nos.3 & 4.

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**CORAM : R.D. DHANUKA &
S.G. MEHARE, J.J.**

DATED : 23rd MARCH, 2022

ORAL JUDGMENT (PER R.D. DHANUKA, J.) :-

1. Rule. Rule made returnable forthwith. Mr. Kale, learned Government Pleader waives service on behalf of respondent nos. 1 and 2. Learned counsel Mr. Maniyar waives service on behalf of respondent nos.3 and 4.
2. By consent of the parties, all these three petitions were heard together and are being disposed off by a common order.
3. The petitioners have impugned order dated 18.04.2018 passed by respondent no.2, Education Officer (Secondary), Zilla Parishad, Parbhani and seek modification of the said order by

directing the Education Officer to grant approval to the petitioners on 100% grant-in-aid basis with effect from 16.07.2016 and 15.07.2017 as Assistant Teacher in regular pay scale instead of granting it on consolidate salary. The petitioners also seek a writ of mandamus against respondent nos.1 and 2 to grant pay scale with effect from 15.07.2020 and 12.07.2019 for modifying the order dated 09.03.2020 and 19.01.2021.

4. The date of approval of each of these petitioners, date of transfer and date of the impugned order are set out herein :

W.P. No.	Name of Petitioner(s)	Date of Approval	Date of Transfer w.e.f.	Name of the Authority granted approval to transfer
3328/22	P-1 Vijendra Uddhavrao Dhapse P-2 Prashant Subhasrao Naik	03.07.2015 (P.No.34) 06.03.2017 (P.No.36)	22.09.2017 (P.No.39 & 42)	18.04.2018 (P.No.47) Res. No.2 – Education Officer (Sec.)
3331/22	P-1 Sunita Baburao Dahifale P-2 Shubhangi Diwakar Gangapurkar P-3 Varsha Dattatry Kadam	03.07.2015 (P.No.34) 31.03.2017	22.09.2017 (P-38 to 43)	46
3333/22	P-1 Vinod Ramprasad Shinde P-2 Shrikant Dattatray Newarekar	01.02.2017 (P-35)	22.09.2017 (P-38 to 41)	46

5. Mr. Panpatte, the learned counsel for the petitioners invited our attention to the order dated 12.03.2021 passed by a

Division Bench of this Court directing the respondents to grant approval to all those petitioners as Assistant Teacher on 100% grant-in-aid and to pay regular pay scales in case of Sandhya D/o. Balkrushna Teli and Others Vs. The State of Maharashtra and Others in Writ Petition (Stamp) No.93919 of 2020.

6. The learned counsel also invited our attention to the judgment of the Division Bench of this Court delivered on 26.09.2021 in Writ Petition No.5657 of 2021 in case of Satish S/o Venkarrao Yelkar and Others Vs. The State of Maharashtra and Others and would submit that the said judgment would squarely apply to the facts of this case. It is submitted that the respondent nos.3 and 4 schools have been granted 100% grant-in-aid for the post on which each of these petitioners have been transferred from unaided division to aided division on various dates mentioned above and thus the respondent no.2 could not have sanctioned salary of the petitioners on consolidated pay of Rs.8,500/- per month and ought to have paid the salary payable on the basis of appointment made on the 100% grant-in-aid post.

7. The learned Government Pleader could not distinguish the judgment of this Court in case of Satish S/o Venkarrao Yelkar (Supra). This Court in the said judgment after adverting to various judgments has held that the petitioners having completed the service as Assistant Teachers on unaided post in the college run by the

respondents therein are entitled to be transferred to the aided post under the provisions of the MEPS Rules and entitled to be paid the salary payable on the basis of 100% grant-in-aid.

8. In our view, the principles laid down by this Court in case of Satish S/o Venkarrao Yelkar (Supra) would squarely apply to the facts of these cases. We accordingly pass the following order:

ORDER

- I) All these writ petitions are allowed in terms of prayer clause (C), (D) and (E).
- II) Rule is made absolute in the aforesaid terms. No order as to costs.
- III) Parties to act on the authenticated copy of this order.

(S.G. MEHARE. J.)

(R.D. DHANUKA, J.)