

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

926 WRIT PETITION NO.4594 OF 2021

**RAMAKANT DESAI DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA THR ITS SECRETARY AND OTHERS**

...

Advocate for Petitioner : Mr. Chaudhari Nitin K.
AGP for Respondents/State : Mr. S. B. Yawalkar
Advocate for Respondent Nos. 3 & 4 : Mr. S. M. Gaikwad

...

943 WRIT PETITION NO.12869 OF 2021

**BHARAT HARIBHAU BHISE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr. Chaudhari Nitin K.
AGP for Respondents/State : Mrs. M. A. Deshpande
Advocate for Respondent Nos. 3 & 4 : Mr. S. M. Gaikwad

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944 WRIT PETITION NO.12876 OF 2021

**BALIRAM KISAN KORDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Chaudhari Nitin K.
AGP for Respondents/State : Mr. S. B. Yawalkar
Advocate for Respondent Nos. 3 & 4 : Mr. S. M. Gaikwad

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945 WRIT PETITION NO.12877 OF 2021

**MANOJ DATTATRAYA GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Chaudhari Nitin K.
AGP for Respondents/State : Mr. S. B. Yawalkar
Advocate for Respondent Nos. 3 & 4 : Mr. B.B. Bhise

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946 WRIT PETITION NO.12880 OF 2021

BHIMSEN LAXMAN GADADE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Chaudhari Nitin K.
AGP for Respondents/State : Mr. S. B. Yawalkar
Advocate for Respondent Nos. 3 & 4 : Mr. B.B. Bhise

...

WRIT PETITION NO. 13227 OF 2021

ARUN DATTATRAYA KHULE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.

...

Advocate for the Petitioner : Mr. Chaudhari Nitin K.
A.G.P. for the Respondent Nos 1 & 2 : Mr. A.S. Shinde
Advocate for the Respondent No. 3 & 4 : Mr. S.M. Gaikwad

CORAM : **MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : **26.07.2022.**

PER COURT :

All these petitions arise out of similar orders passed in respect of the petitioners regarding the proposals of their transfer from unaided to aided schools.

2. As pointed out by the learned A.G.P., all these transfers have been effected after Rule 41-A was introduced in the Maharashtra Employees of Private School Rules, 1981 with effect from 08.06.2020. Mr. Chaudhari submits that the Education Officer has not considered the aspect in the light of such amended provision and also the directions issued by this Court in **Writ Petition No. 3336/2021 (Patekar Someshwar Rohidas Vs. The State of Maharashtra and others)** and connected writ petitions, dated 02.05.2022.

3. The parties are unanimous that the directions as were given in Writ

Petition No. 3336/2021 in paragraph No. 15 would be sufficient to dispose of the writ petitions.

4. The Writ Petitions are disposed of with following directions :

(a) Wherever the Managements/respondents in these petitions have not intimated to the Education Officer as regards the available vacancies in their Institutions, such Managements shall forthwith issue communications to the Education Officer, on or before 23.08.2022 setting forth details of the vacancies available with such Institutions.

(b) While considering the above, all such communications which may have already been forwarded to the Education Officer by some of the Managements, the issue of surplus teachers vis-a-vis available vacancies in Beed district, based on their seniority and eligibility, will be considered and recommendation of surplus teachers to particular Institutions for absorption, would be considered by the Education Officer.

(c) While approving transfers from unaided to aided category as per the proposals forwarded by the respondents/Managements, the Education Officer shall consider surplus teachers available and while approving such transfers, would also consider whether an imbalance in reservation is likely to be created in the aided category owing to such transfers.

(d) As far as possible, the Education Officer shall ensure that an imbalance is not created in reservation while approving such transfers to the aided category vis-a-vis vacancies that have occurred from the reserved category on account of the teachers, who are exiting employment on account of their superannuation or voluntary retirement, etc.

(e) After considering the above aspects, the Education Officer shall pass reasoned orders in the cases before him, as expeditiously as possible and preferably on or before 14.09.2022.

(f) Needless to state, those teachers, whose proposals would be approved for transfer from the unaided to aided category, would be entitled for all consequential benefits from the dates on which the transfers are approved.

(g) The above guidelines would apply squarely to the cases wherein, the transfers are effected from unaided to partially aided or fully aided or from partially aided to fully aided category, etc.

(h) In the event of any grievance of any of these petitioners or any other teacher, persisting or cropping up on account of reservation/backlog while approving transfers of teachers from unaided to aided or partially aided or from partially aided to fully aided category, the said issue will be left open if there is specific challenge to that extent.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-