

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

148 WRIT PETITION NO. 6258 OF 2022

JAYASHREE BALAJI KULTHE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Advocate for Petitioner : Mr. N. K. Chaudhari
AGP for Respondent Nos. 1 and 2 : Mr. P. K. Lakhotiya

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150 WRIT PETITION NO. 6415 OF 2022

SHITAL BABASAHEB GHADGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Advocate for Petitioner : Mr. N. K. Chaudhari
AGP for Respondent Nos. 1 and 2 : Mr. S. G. Sangle

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**CORAM : RAVINDRA V. GHUGE AND
ARUN R. PEDNEKER, JJ.**

DATED : 05 SEPTEMBER 2022

PER COURT :-

1. In both these matters, respondent nos. 3 and 4 have been served with court notice. Yet, no appearance has been entered.
2. The learned Advocate for the petitioners as well as the

learned AGP submit that these two cases would be covered by the order passed by this Court on 02.05.2022 in Writ Petition No. 3336 of 2021 filed by *Patekar Someshwar Rohidas v. The State of Maharashtra and others* and connected matters.

3. We have perused the order dated 02.05.2022 passed in *Patekar Someshwar Rohidas* (supra). The said order is in the light of an earlier order dated 10.03.2022 passed in Writ Petition No. 9284 of 2021 filed by *Dhanashree Bhausahab Borkhede v. The State of Maharashtra and others*.

4. The petitioners have put forth prayer clauses (B) and (C) in these two matters as under :

[B] By issuing appropriate Writ, order or directions, hold and declare that, the impugned communication dtd. 21/01/2022 issued by Respondent No. 2 is arbitrary and illegal to the well settled position of the law, and hence, the same is liable to be quashed and set-aside, and for that purpose issue necessary orders;

[C] By issuing appropriate Writ, order or directions,

Respondent No.2 may kindly be directed to grant approval to the transfer of the services of petitioner as assistant teacher from the unaided division to the aided division of the secondary school run by the same management, with all consequential benefits, and for that purpose issue necessary orders.

5. Considering the above, we do not find any reason to adopt a different view. The petitioners before us would be covered by the order of this Court passed in *Dhanashree Bhausaheb Borkhede* (supra) and *Patekar Someshwar Rohidas* (supra). Hence, in the light of the directions set out in paragraph 15 of the order dated 02.05.2022 passed in *Patekar Someshwar Rohidas* (supra), that these petitions are partly allowed. The impugned orders are quashed and set aside and the proposals of these petitioners are remitted to the concerned Education Officer on the following conditions :

- (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 15.10.2022, 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 in the reserved category on account of 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 15.12.2022.

[ARUN R. PEDNEKER, J.]

[RAVINDRA V. GHUGE, J.]

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