

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

WRIT PETITION NO.4889 OF 2022

Neetabai Ravindra Chaudhari
Age : 32 years, Occu. Service,
Assistant Teacher of Hirubhai Himabhai Patel,
Primary Vidyalaya, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon.Petitioner

Versus

- 1] The State of Maharashtra,
Through it's Principal Secretary,
Sports and Education Department,
Mantralaya, Mumbai.
- 2] The Deputy Director of Education,
Nashik Region, Nashik.
- 3] The Education Officer (Primary),
Zilla Parishad, Jalgaon.
- 4] Chalisgaon Education Society Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon,
Through it's President
- 5] Hirubhai Himabhai Patel,
Primary School, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon,
Through it's Head Master. .. Respondents

AND

WRIT PETITION NO.4983 OF 2022

Komal Sunil Patil,
Age : 32 years, Occu. Service,
Assistant Teacher of Hirubhai Himabhai Patel,
Primary Vidyalaya, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon. .. Petitioner

Versus

- 1] The State of Maharashtra,
Through it's Principal Secretary,
Sports and Education Department,
Mantralaya, Mumbai.
 - 2] The Deputy Director of Education,
Nashik Region, Nashik.
 - 3] The Education Officer (Primary),
Zilla Parishad, Jalgaon.
 - 4] Chalisgaon Education Society Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon,
Through it's President
 - 5] Hirubhai Himabhai Patel,
Primary School, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon,
Through it's Head Master.
- .. Respondents

AND

WRIT PETITION NO. 5017 OF 2022

Kaminee Ramsing Thoke,
Age : 36 years, Occu. Service,
Assistant Teacher of Hirubhai Himabhai Patel,
Primary Vidyalaya, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon.

....Petitioner

Versus

- 1] The State of Maharashtra,
Through it's Principal Secretary,
Sports and Education Department,
Mantralaya, Mumbai.
- 2] The Deputy Director of Education,
Nashik Region, Nashik.

.. 3 ..

- 3] The Education Officer (Primary),
Zilla Parishad, Jalgaon.
- 4] Chalisgaon Education Society Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon,
Through it's President
- 5] Hirubhai Himabhai Patel,
Primary School, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon,
Through it's Head Master. .. Respondents
- ...

In all the matters :

Advocate for the Petitioners : Mr. Ramesh I. Wakade

AGP for Respondents – State : Mr. S.G. Karlekar

Advocate for Respondent No.3 : Mr. Gajendra D. Jain h/f.
Mr. M.S. Sonawane

Advocate for the respondents no.4 and 5 : Mr. Vasant B. Patil

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

Dated : May 05, 2022

Oral Judgment [Per R. D. Dhanuka, J.] : -

1. Rule.

. Learned AGP waives service of notice on behalf of
respondent nos. 1 to 3 in all the matters.

2. Rule made returnable forthwith. Heard finally with the
consent of the parties.

3. The petitioners, by this petition filed under Article 226 of the Constitution of India, have challenged the order dated 08.03.2022 passed by respondent No. 3 - Education Officer, Jalgaon, thereby rejecting the proposal of the petitioners seeking approval to the transfer of petitioners from unaided to aided posts.

4. Learned counsel for the petitioners invited our attention to the aforesaid impugned order dated 08.03.2022, whereby the proposals submitted by the petitioners came to be rejected by placing reliance upon the Government Resolution dated 01.04.2021. It is submitted by the learned counsel for the petitioners that the petitioners were transferred on 20.04.2020 from unaided to aided posts whereas; the Government Resolution dated 01.04.2021 issued by the Government of Maharashtra is later in point of time and hence, it is not applicable to the case of the petitioners.

5. Learned counsel for the respondents does not dispute the aforesaid submission advanced by the learned counsel for the petitioners.

6. The Division Bench of this Court in the case of **Ajay Vishwanath Kharade Vs. State of Maharashtra and others**

reported in 2022(2) Mh.L.J. 649, has held that the Government Resolution dated 01st April, 2021, which is subsequent to the transfer of the petitioners, cannot apply retrospectively to the transfer of the petitioners from unaided to aided posts as they were transferred on 20th April, 2020 i.e. much before issuance of said Government Resolution.

7. In view of above and well settled position in law, the impugned order dated 08.03.2022 passed by respondent no. 3 – Education Officer (Primary), Zilla Parishad, Jalgaon, thereby rejecting the proposal of the petitioners seeking approval to the transfer of petitioners from unaided to aided posts, is required to be quashed and set aside. Hence, the following order is passed :-

ORDER

[i] Rule is made absolute in terms of prayer clauses ‘B’ and ‘C’ of the petition.

[ii] It is made clear that the respondent no.3 - Education Officer while granting approval to the petitioners as Shikshan Sevak on the aided posts, shall consider the services rendered by the petitioners on unaided posts.

[iii] The Respondent no.3 - Education Officer shall pass appropriate orders within four weeks from the date of communication of this order.

8. Writ Petitions are accordingly disposed off with no order as to costs.

(S. G. MEHARE, J.)

(R.D. DHANUKA, J.)

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