

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

WRIT PETITION NO.7796 OF 2019

Shahaji s/o Annasaheb Bhapkar,
Age 47 years, Occ. Service,
R/o. Pimpalgaon Pisa,
Tq. Srigonda, Dist. Ahmednagar.

... Petitioner.

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
School Education Department,
Mantralaya, Mumbai- 400032.
- 2) The Deputy Director of Education,
Pune Region, Pune.
- 3) The Education Officer (Secondary)
Zilla Parishad, Ahmednagar,
Dist. Ahmednagar.
- 4) The Secretary,
Kukdi Education Society,
Pimpalgaon Pisa, Tq. Srigonda,
Dist. Ahmednagar.
- 5) Head Master,
Renukadevi Secondary and
Higher Secondary Vidyalaya,
Pimpalgaon Pisa Tq. Srigonda,
Dist. Ahmednagar.

... Respondents.

...

Advocate for Petitioner : Mr. Kanade Arun G.
AGP for Respondent Nos. 1 to 3 : Mr. A.S. Shinde
Advocate for Respondent No. 4&5 : Mr. Jeewan R. Patil

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

DATE : 05.08.2022.

ORAL JUDGMENT :

Heard the learned advocates of both the sides finally at their request.

2. Rule. The Rule is made returnable forthwith.

3. The approval to the petitioner for transfer from unaided to aided school has been turned down by the communication dated 21.08.2017 only on the ground of availability of a surplus teacher.

4. The issue is no more *res integra*. In catena of decisions of this Court viz. Writ Petition No 5313/2017, 3271/2019 etc. it has been held that approval cannot be refused on the ground of availability of a surplus teacher.

5. We, therefore, allow the writ petition, quashed and set aside the impugned communication and remit the matter back to the respondent Education Officer for taking a fresh decision. He shall not refuse to grant approval on the ground of availability of a surplus teacher. He shall take decision afresh within four weeks from today.

6. If the Education Officer grants the approval, the petitioner would be entitled to all the monetary benefits commensurate with the decision.

7. The Rule is made absolute.

(SANDEEP V. MARNE J.)

(MANGESH S. PATIL, J.)

mkd/-