

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

WRIT PETITION NO.11054 OF 2021

Gangaram S/o Shriram Maind,
Age : 37 years, Occu : Service as Teacher,
R/o Ridhora (Kusegaon), Tq. Sengaon,
Dist. Hingoli. ... Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Education Department,
Mantralaya, Mumbai-32.
2. The Education Officer (Secondary)
Zilla Parishad, Hingoli.
3. Savitribai Phule Shikshan Prasarak Mandal,
Through Its Secretary,
Savitribai Phule Secondary High School, Adol,
Tq. Sengaon, Dist. Hingoli. ... Respondents

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Advocate for Petitioner : Mr. S. S. Tope.
AGP for Respondents-State : Mr. P. K. Lokhotiya.
Advocate for Respondent No.3 : Mr. V. G. Deshmukh.

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**CORAM : RAVINDRA V. GHUGE AND
S. G. MEHARE, JJ.**

DATE : 28.02.2022

ORAL JUDGMENT : (Per Ravindra V. Ghuge, J.) :-

1. Rule. Rule made returnable forthwith and heard finally
by the consent of the parties.

2. The petitioner has put forth prayer clauses “B”, “C” and “D” as under :

“B. This Hon'ble Court, by issue of Writ of certiorari or Order or direction in the like nature, the impugned order dated 22.09.2021 issued by the Respondent No.02 Education Officer (Secondary) Zilla Parishad, Hingoli may kindly be quashed and set aside.”

“C. This Hon'ble Court, by issue of Writ mandamus or Order or direction in the like nature, the Respondent No.02 Education Officer (Secondary) Z.P. Hingoli may kindly be directed to grant 100% Grant in aid approval to the petitioner and to pay regular salary accordingly.”

“D. Pending hearing and final disposal of the Writ Petition, the respondent no.2 Education Officer (Secondary) Zilla Parishad, Hingoli may kindly be directed to grant provisional approval to the transfer order of petitioner as per proposal forwarded by respondent No.3 institution.”

3. The grievance of the petitioner appears to be that the vacancy that has occurred due to the death of the permanent Assistant Teacher Mr. Gautam Manvar, the proposal of the petitioner for transfer from the unaided to the aided category is kept on hold. The vacancy that has occurred because of the death of Mr. Gautam Manvar, can be dealt with by the Management separately. Merely, because the petitioner is also an Assistant Teacher in English and the deceased Gautam

Manvar was also an Assistant Teacher in English, the petitioner's proposal is not being considered.

4. Having considered the strenuous submissions of the learned advocates for the respective sides and having gone through the petition paper book, it is obvious that after Gautam Manvar, a permanent Assistant Teacher, in English subject passed away in the Covid-2019 Pandemic, his son Rajratan has applied for compassionate appointment vide letter dated 05.07.2021 addressed to the Education Officer. The widow of the deceased has also signed below the said letter indicating that the whole family was dependent upon the deceased Gautam Manvar and the son Rajratan should be considered for compassionate appointment, as he is M.Sc., B.Ed. in Mathematics.

5. Respondent No.3-Management has addressed Rajratan on 02.08.2021 specifically referring to the communication received by the Management through the Education Officer dated 12.07.2021 that Rajratan would not be eligible to be appointed in place of his father on compassionate basis since the father was a teacher in English subject and there is no

vacancy for the subject of Mathematics. He is assured that the moment a post in the Mathematics Department becomes available, Rajratan would be appointed on the said post on compassionate basis.

6. The learned advocate for the Management submits that they have no objection if the case of the petitioner is considered for conversion from the unaided category to the aided category, keeping in view that a resolution has already been passed and the petitioner is presently working on the said post.

7. In view of the above, the request of the petitioner for being transferred from the unaided category to the aided category, at the same level, can be considered by the Education Officer, who was indecisive since the appointment on compassionate basis with regard to the deceased Gautam Manvar, was pending, there is no impediment for considering the said request.

8. In view of the above, this petition is partly allowed by quashing and setting aside the impugned order dated 22.09.2021 with a direction to respondent No.2 to decide the

claim of the petitioner, as expeditiously as possible and preferably, on or before 31.03.2022.

9. Needless to state that the benefit, if granted to the petitioner pursuant to this order, would be from the deemed date when he has been transferred on the aided category by the Management strictly in accordance with law.

10. Rule is made partly absolute, in the above terms.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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vmk/-