

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

951 WRIT PETITION NO.13181 OF 2021

Sachin Kachru Waghmare,
Age: 35 years, Occu: Service,
R/o. Hiwara, Gowardhan,
Tq. Parli, Dist. Beed.

... **PETITIONER**

VERSUS

1. The State of Maharashtra,
through Secretary, Department
of School Education, Mantralaya,
Mumbai-32.
2. The Education Officer (Secondary)
Zilla Parishad Beed,
Tq. and Dist. Beed.
3. Marathwada Shikshan Prasarak Mandal
Aurangabad, Deogiri College Campus,
Station Road, Aurangabad, Tq. and
Dist. Aurangabad through it's Secretary
4. New High School Hiwara, Gawardhan,
Tq. Parli (Vaijnath), Dist. Beed,
through it's Head Master.

... **RESPONDENTS**

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Advocate for Petitioner : Mr. Bhausahab B. Bhise
AGP for Respondent/State : Mr. K.N. Lokhande
Advocate for Respondent Nos.3 and 4 : Mr. Abhijit G. Choudhari

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AND

952 WRIT PETITION NO.13198 OF 2021

Kishor Babanrao Solanke,
Age: 37 years, Occu: Service,
R/o. Mohkhed, Tq. Dharur,
Dist. Beed.

... **PETITIONER**

VERSUS

1. The State of Maharashtra,
through Secretary, Department
of School Education, Mantralaya,
Mumbai-32.

2. The Education Officer (Secondary)
Zilla Parishad Beed,
Tq. and Dist. Beed.
3. Marathwada Shikshan Prasarak Mandal
Aurangabad, Deogiri College Campus,
Station Road, Aurangabad, Tq. and
Dist. Aurangabad through it's Secretary
4. New High School, Sadola,
Tq. Majalgaon, Dist. Beed,
through it's Head Master.

... **RESPONDENTS**

...

Advocate for Petitioner : Mr. Bhausahab B. Bhise
AGP for Respondent/State : Ms. Vaishali N. Patil Jadhav
Advocate for Respondent Nos.3 and 4 : Mr. Abhijit G. Choudhari

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

DATE : 19.08.2022

PER COURT :

Both these petitions arise out of 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.Ps., these transfers have been effected after Rule 41-A which was introduced in the Maharashtra Employees of Private School Rules, 1981 with effect from 08.06.2020. Mr. Bhise 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) If the Managements/respondents 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 14.09.2022 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 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 03.10.2022.
- (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.)