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

WRIT PETITION NO.12554 OF 2022

RELEKAR NARAYAN SHANKARRAO
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND ANOTHER

AND
WRIT PETITION NO.12562 OF 2022

DHOBAL SHRIKANT EKNATH
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND ANOTHER

AND
WRIT PETITION NO.12588 OF 2022

KAKDE MOHAN BABURAO
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND ANOTHER

AND
WRIT PETITION NO.12618 OF 2022

SMT. SIRSATH VISHRANTI SIDDHART
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND ANOTHER

AND
WRIT PETITION NO.12659 OF 2022

RATHOD KAILAS PANDURANG
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND ANOTHER

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Mr S. V. Deshmukh, Advocate for petitioners;
Mr P. S. Patil, Mr S. G. Karlekar, Mr S. G. Sangle and Mr S. K.
Tambe, A.G.Ps. for respondents/State in respective petitions

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 13th December, 2022

PER COURT:

1. Heard by the consent of the parties.
2. All these petitioners are identically placed and have put forth identical prayers. For the sake of clarity, we are reproducing prayer clauses (B) and (C), as set out in Writ Petition No.12554/2022 hereunder :-

“B. By issuing appropriate writ, order or directions in the like nature, the impugned communication dated 21.9.2022 (Exh-A) issued by the Respondent No. 2 thereby rejecting the proposal of transfer from unaided to aided post may kindly be quashed as set aside with further directions to issue approval to the transfer within a period of 1 month;

C. Pending hearing and final disposal of this Writ Petition, the Respondent No. 2 may kindly be directed to maintain status quo in respect of post held by the Petitioner;”

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3. Issue notice to the respondents in all these writ petitions, returnable forthwith. The learned A.G.Ps. waive service of notice on behalf of both the respondents in respective petitions.

4. The learned Advocate for the petitioners submits that, the Management is not made a party as the impugned order is of the Education Officer.

5. Reliance is placed on the order passed by this Court on 23/07/2020 in Writ Petition No.4958/2020 (Jogdand Ram Mahadev Vs. State of Maharashtra and Others) and the order dated 02/05/2022, passed by this Court in Writ Petition No.3336/2021 (Patekar Someshwar Rohidas Vs. State of Maharashtra and others) and a group of petitions. The learned Advocate for the petitioners submits that, recently this Court has passed an order on 09/12/2022 in Writ Petition No.11751/2022 (Dhongde Prashant Rameshrao Vs. State of Maharashtra and another). He prays that the observations, conclusions and directions, set out Patekar Someshwar Rohidas (supra) in paragraph Nos. 15(a) to 15(h) be made applicable even to these cases, as these petitioners are identically placed.

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6. The learned A.G.P. submits that the contention of the State as regards the circumstances due to which Rule 41A of the M.E.P.S. Rules, 1981 has been temporarily suspended, has also been considered in the said order.

7. In view of the above, these petitions are disposed off, by applying the observations, conclusions and directions set out in paragraph Nos.15(a) to 15(h) in the case of Patekar Someshwar Rohidas (supra), which are reproduced hereunder :-

(a) Wherever the Managements 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 05/01/2023 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

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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 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 28/02/2023.

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(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.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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