

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4410 OF 2021

Kakaso Suresh Masugade and Anr. ... Petitioners.

V/s.

The State of Maharashtra & Ors. ... Respondents.

Mr. N. V. Bandiwadekar a/w Mr. Vinayak Kumbhar and Mr. Ajinkya
Nawale i/b Mrs. A. N. Bandiwadekar for Petitioners.

Mrs. S. S. Bhende, AGP for Respondent-State.

**CORAM : SUNIL B. SHUKRE, AND
AMIT BORKAR, JJ.**

DATE : 25 FEBRUARY 2022.

P. C. :

Rule. Rule made returnable forthwith by consent of parties.

2. Heard learned counsel for the Petitioners and learned AGP for Respondents.

3. The facts established on record show that though the Petitioners appointment to aided post after their transfer from unaided post was approved by Respondent No.2, the direction was given for payment of salary to the Petitioners from out of grant in aids on a staggered basis by relying upon sub clause (5) (b) of clause

3 of Government Resolution dated 28/6/2016. However, the provision made in sub-clause applies only where Government sanction new posts and new appointments are made on the basis of such sanction in aided school and that those provisions do not have any application to grant of approval to the Peons who have been appointed to aided post on their transfer from unaided post. This view is taken in *Pramod Prabhakar Pokale vs. State of Maharashtra and Ors.*, 2019(4) Mh. L. J. 278 which has been followed in several other judgments including one rendered in *Dr. Vijay Jayram Ghodvinde & Anr. vs. The State of Maharashtra & Anr., Writ Petition (St) No.5518/2020*. Therefore, the impugned order is illegal and quashed and set aside.

4. The Petition is allowed in terms of prayer clause (b1). It is further directed that the names of the Petitioners shall be included in Shalarth system and salary arrears shall be paid to them immediately thereafter, in accordance with law. Rule accordingly.

(AMIT BORKAR, J.)

(SUNIL B. SHUKRE, J.)