

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

WRIT PETITION NO. 8661 OF 2022

Sanjay Prakash Mohite & anr..

...Petitioners.

V/s.

The State of Maharashtra & Anr..

...Respondents.

Mr. N.V. Bandiwadekar i/b. Mrs. Ashwini Bandiwadekar, for the
Petitioners.

Mr. N.C. Walimbe, AGP for State.

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : JULY 25, 2022

P.C. :

1. The proposal seeking approval to the up-gradation of the
Petitioner as Assistant Teacher from part time post to full time post is
refused by Respondent No. 2 by referring to the Government
Resolution dated 23/6/2017 and the Roaster approved by Backward
Class Cell dated 15/5/2017. The Petitioner is upgraded in 2018.
Learned Counsel submits that the person in whose place the petitioner
was upgraded has retired and he was from general category.

2 Be that as it may, as far as the applicability of Government
Resolution dated 23/6/2017 is concerned, it has been held by this Court

that the same would not apply for the up-gradation of the post when the person is already working on part time basis. Reference can be made to the Orders of this Court dated 9th July, 2021, 25th January, 2021 and 9th March, 2022.

3 The Roaster of 2017 was already submitted. The Deputy Director of Education shall consider that the person on whose post the petitioner was upgraded i.e. whether he belongs to reserved category or open category.

4 The impugned order is set aside. Deputy Director of Education shall consider seeking approval for up-gradation of petitioner as a full time employee afresh on its own merits and take decision preferably within 6 months. The Writ Petition is disposed of with no order as to costs.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J)