

WRIT PETITION NO.8564 OF 2021

Prasad Maruti Jadhav ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Prashant Katneshwarkar with Mr. Shrirang Katneshwarkar for the
Petitioner.
Mrs. P.J. Gavhane AGP for the Respondent-State.

**CORAM : S. V. GANGAPURWALA &
S. M. MODAK, JJ.**

DATED : 11TH JULY 2022

P.C. :

1. The learned counsel for the Petitioner submits that the Petitioner has approached this Court with limited grievance that though the Petitioner was transferred from unaided post to aided post after rendering three years services on unaided post, the Education Officer has granted approval to transfer of the Petitioner as Shikshan Sevak and not as the Assistant Teacher on the pay scale.
2. This Court under order dated 6th January 2022 directed the Petitioner to apply to the Education Officer and place before him the decision relied by the Petitioner to claim pay scale of the Assistant Teacher. Pursuant to the said order the Petitioner has approached the Education Officer. The Education Officer passed an order that the approval cannot be granted to transfer of the Petitioner as the Assistant Teacher as the

Petitioner appears to be surplus. There are 16 sanctioned posts and all 16 persons working on the said posts are paid as per the pay scale. By amendment, the said order is also challenged in the Writ Petition. There cannot be any debate that if the Petitioner has rendered three years service as the Assistant Teacher on unaided post and thereafter transferred to 100% grant-in-aid post, then transfer is to be granted on 100% grant-in-aid as the Assistant Teacher. The only question would be about availability of the post. It is contended that the Respondent No.5-Society runs four schools. The combined seniority list of all the four schools is required to be considered. From the impugned orders, it does not transpire that the Authority has considered availability of the posts considering combined seniority list and also school-wise availability of the posts.

3. Respondent No.3-Education Officer will have to consider the staffing pattern sanctioned in the year 2016-17.

4. In the light of above, we set aside both the impugned orders i.e. the order granting approval to transfer the Petitioner to the aided post as Shikshan Sevak and also the impugned order observing that the approval cannot be granted to transfer of the Petitioner to aided post as the Assistant Teacher.

4. The Education Officer shall reconsider the proposal in the light of observations made above and take decision afresh preferably within four months.

5. The Writ Petition is disposed of accordingly. No costs.

(S. M. MODAK, J.)

(S. V. GANGAPURWALA, J.)