

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

Writ Petition No.12159 of 2022

Sachin Shivaji Jadhav & anr. ... Petitioners

v/s.

The State of Maharashtra & ors. ... Respondents

With

Writ Petition No.12160 of 2022

Dattatraya Baburao Dige & anr. ... Petitioners

v/s.

The State of Maharashtra & ors. ... Respondents

Mr. N.V. Bandiwadekar i/b. Ms. Ashwini N. Bandiwadekar, Advocate
for the Petitioner in both petitions.

Ms. P.N.Diwan, AGP for the State.

**CORAM : S.V. Gangapurwala &
R.N.Laddha, JJ.**

14th October 2022

P.C.

The Petitioners are transferred from unaided to aided post in the year 2013. The Petitioners were working as Peon. The proposal seeking approval to the transfer is rejected on the ground that there were some deficiencies in the documents and that there are no Government orders for transfer of members of the non-teaching staff from unaided to aided post.

2. We have heard learned Counsel for the Petitioners and the learned AGP.

3. As far as deficiencies in non-submission of documents are concerned, the Petitioners and/or management may comply with the said deficiencies. However, the reason given for non-acceptance of the proposal and/or rejection of the proposal seeking approval to the transfer from unaided to aided is that Government orders do not exist for transfers to members of non-teaching staff.

4. Rule 41 of the MEPS Rules does not make distinction between a member of the teaching and/or non-teaching staff. Rule 41 applies equally to the member of the teaching and non-teaching staff. The transfers from unaided to aided of these Petitioners are in the year 2013. The same will have to be considered in accordance with law existing on the said date.

5. In the light of that, the impugned orders are quashed and set aside. The Education Officer shall reconsider the proposal seeking approval to the transfer of Petitioners as a peon from unaided to aided. The Petitioners and management shall comply with the deficiencies qua the documents mentioned in the impugned order within a period of four weeks from today.

6. Upon receipt of the documents from the Petitioners, the Education Officer shall thereafter decide the same preferably within four months.

7. Writ Petitions disposed of. No costs.

(R.N.Laddha, J)

(S.V.Gangapurwala, J)

Lata Panjwani, P.S.