

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12406 OF 2022

Sarika Mahavir Tare
(Nee : Sarika Bhausahab Kole) ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

Mr. Prashant Bhavake, Advocate for the Petitioner.

Mr. S. B. Kalel, AGP for the Respondents/State.

**CORAM: S.V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : OCTOBER 17, 2022

P.C.

1. The proposal seeking approval to the transfer of the petitioner from the unaided to aided post is approved but in phase-wise grant-in-aid manner.

2 The petitioner was appointed on unaided post in the year 2013 from Open category. Her appointment on unaided post is approved. She is transferred to the aided division on 17th January 2018.

3 It is submitted that the petitioner has worked on unaided post for five years.

4 We have in our judgment dated 4th July 2019 in Writ Petition No.1493 of 2018 with connected writ petitions held that some of the clauses of the Circular dated 28th June 2016 do not apply. It appears that the Education Officer, while granting approval to the appointment of petitioner as

an Assistant Teacher from the date of transfer to the aided post had granted approval on grant-in-aid in phase-wise manner to the effect that after five years, the petitioner would be granted approval on 20% grant-in-aid. The same would not be in tune with the order passed by this Court and also by the Bench at Aurangabad, from time to time.

5 In case the petitioner is transferred on 100% grant-in-aid post since the date of completion of three years, he shall be considered on 100% grant-in-aid post. In case the petitioner is transferred on grant-in-aid post, for example on 60%, then from the date of transfer, they would be on 60% grant-in-aid post, but if the petitioner, after having completed three years on unaided post and is transferred on 100% grant-in-aid post, his services will have to be considered on 100% grant-in-aid post. This aspect has been ignored by the Education Officer.

6 In light of above, the impugned order of granting approval in phase-wise manner is quashed and set aside and modified.

7 In case the Education Officer is satisfied about approval to the transfer of the petitioner on aided post and if the petitioner has completed three years and more on unaided post before she is transferred to aided post on 100% grant-in-aid post, then respondent/Education Officer shall consider grant of approval to the transfer of the petitioner on 100% grant-in-aid post within a period of six months.

8 The Writ Petition is disposed of. No costs.

(R. N. LADDHA, J.)

(S.V. GANGAPURWALA, J.)