

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3797 OF 2021

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Rupali Nitin Malpure

..... Petitioner

Vs.

State of Maharashtra & Ors.

..... Respondents

Mr. N. V. Bandiwadekar with Mr. Vinayak Kumbhar I/b. Mr.
A. N. Bandiwadekar for the Petitioner
Mr. N. C. Walimbe, AGP for the Respondent State
Ms. Deepali Y. Deherkar for Respondent Nos.3 and 4

**CORAM: S.B.SHUKRE &
G.A.SANAP, JJ.**

DATED : MARCH 2, 2022

P.C.

1 Rule.

Rule is made returnable forthwith by consent of the
parties.

2 Heard learned Counsel for the Petitioner, learned
Counsel for the Respondents and learned AGP for the State.
Perused the Affidavit-in-Reply.

3 The facts established on record show that though the
Petitioner's appointment to aided post after her transfer
from unaided post was approved by Respondent No.2, the
direction was given for payment of salary to the Petitioner

from out of grant in aids on a staggered basis by relying upon sub clause (5) (b) of clause 3 of Government Resolution dated 28th June 2016. However, the provision made in sub-clause applies only where Government sanctions 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 Assistant Teacher who has been appointed to aided post on her 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. in Writ Petition (ST) No.5518 of 2020.***

4 The Petition is allowed in terms of prayer clause (b).

5 It is further directed that the name of the Petitioner shall be included in Shalarth system and salary arrears shall be paid to her immediately thereafter, in accordance with law. Rule accordingly.

(G.A.SANAP, J.)

(S.B.SHUKRE, J.)