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

WRIT PETITION NO.5371 OF 2022

Pramod Arun Vishe & Anr.

..... Petitioners

Vs.

State of Maharashtra & Ors.

..... Respondents

Mr. N. V. Bandiwadekar I/b. Sou. Ashwini Bandiwadekar for the
Petitioner

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

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

DATED : JULY 6, 2022

P.C.

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

2 Heard the learned Counsel for the Petitioner and the learned AGP.

3 The Petitioner claims to have been appointed on unaided post on 15th June 2006. The said appointment is said to be approved. The Petitioner is transferred to the aided post on 15th January 2017. It is the contention of the Petitioner that the post on which the Petitioner is transferred is 100% grant-in-aid post.

4 The impugned order, it appears, is passed on the basis of the Circular dated 28th June 2016. This court, in its judgment and order dated 4th July 2019 in Writ Petition No.1493 of 2018 with connected Writ Petitions held that some of the clauses of Circular dated 28th June 2016 are erroneous and cannot be acted upon.

5 If a person has rendered more than three years of service on unaided post and is thereafter transferred to 100% grant-in-aid post, then the approval ought to be granted on 100% grant-in-aid post. The transfer of the Petitioner is also prior to the amendment to Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

6 In light of that, the impugned order, to the extent of granting approval to the transfer of the Petitioner from unaided post to aided post in phase-wise grant-in-aid manner, is quashed and set aside.

7 The Education Officer shall reconsider the proposal seeking transfer of the Petitioner and if the Education Officer is convinced, shall grant approval to the transfer of the Petitioner on 100% grant-in-aid post from the date of transfer.

8 Said exercise shall be done expeditiously, preferably within four months.

9 If the approval is granted to the Petitioner as observed above on 100% grant-in-aid post from the date of transfer, then the Shalarth ID shall also be accorded accordingly.

10 The Writ Petition is disposed of. No costs.

(S. M. MODAK,J.)

(S.V. GANGAPURWALA, J.)