

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3445 OF 2022

Smt. Rekha Eknath Patil
V/S
State of Maharashtra & Ors.

....Petitioner
....Respondents

...

Mr. Nikhil D. Waje for the Petitioner.
Mrs. P.N. Diwan, AGP for Respondent Nos.1-State.
Mr. Rohit Sakhadeo for the Respondent No.2-Nashik Zilla Parishad.

...

**CORAM: S.V. GANGAPURWALA &
SANDEEP V. MARNE, JJ.**

DATE : 21 JULY 2022.

P.C.:

1 The Petitioner claims to have been appointed in the year 2011 on an unaided post. The appointment of the Petitioner on the unaided post is said to have been approved. The Petitioner is transferred to the aided post on 01.05.2018 however the approval is granted to the transfer of the Petitioner to the aided post with effect from 01.04.2021 relying upon the Government Resolution dated 01.04.2021. The learned Counsel for the Respondent No.2 submits that considering the Notification dated 01.04.2021 and amended Rule 41A of the MEPS Rules the Respondent No.2 has not committed any error in passing the impugned order.

2 The Petitioner is transferred to the aided post on 01.05.2018 i.e. prior to the amendment dated 08.06.2020 by incorporating Rule 41A of the MEPS Rules.

3 As the transfer of the Petitioner to the aided post is prior to the Government Resolution dated 01.04.2021 and amended Rule 41A of the Maharashtra Employees of Private Schools Rules the judgment delivered by this Court in Writ Petition No.1493 of 2018 with connected Writ Petitions dated 4 July 2019 would squarely apply.

4 It has been held that if an employee has rendered three years or more service on unaided post before being transferred to the 100% grant in aid post then the approval has to be on 100% grant in aid from the date of transfer.

5 In light of the above, the impugned order to the extent of granting approval from 01.04.2021 is quashed and set aside.

6 The Education Officer shall satisfy himself that the transfer of the Petitioner was on 100% grant in aid post and if convinced that the transfer of the Petitioner was on 100% grant-in-aid post then shall grant approval to

the transfer of the Petitioner on aided post on 100% grant in aid from the date of transfer. The said exercise shall be done expeditiously preferably within six months. The Writ Petition disposed of. No costs.

(SANDEEP V. MARNE, J.)

(S.V. GANGAPURWALA, J.)

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