

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7634 OF 2022

Dattaprasad Dattatraya Samant ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WRIT PETITION NO. 7636 OF 2022

Sarjerao Rajaram Zende ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

Ms. Pranita P. Hingmire, Advocate for the Petitioners.

Mrs. P. J. Gavhane, AGP for the Respondents/State.

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

DATED : JULY 4, 2022

P.C.

1. The petitioners claim to be appointed in the year 2011. Their appointments on the unaided post were approved and subsequently petitioners claimed to have been transferred to the aided post on 11/06/2018. The learned Counsel for the petitioners submits that petitioners are transferred to the aided post of 100% grant-in-aid. Relying upon the Government Resolution dated 28/06/2016, the approval is granted on phase-wise grant-in-aid.
2. The learned AGP waives notice for the respondent Nos.1 and 2.
3. It appears that factual matrix as narrated by the petitioners is not disputed.

4. The petitioners are appointed on unaided post in the year 2011 and after rendering service for almost seven years are transferred to the aided post on or about 1st August 2018. The Division Bench of this Court at Aurangabad under its judgment dated 4th July 2019 in Writ Petition No. 1493 of 2018 and connected writ petitions has held that some of the clauses of Circular dated 28/06/2016 are erroneous and would not be operated.

5. It has been held that if the Assistant Teacher has rendered service of three years or more prior to the transfer on the aided post, his service shall be considered on the aided post on 100% grant in aid and the proposal has to be approved on 100% grant in aid post from the date of transfer. In the present matters, the petitioners have worked for seven years on the unaided posts.

6. In light of that, the impugned order to the extent it states approval is subject to the Government Resolution dated 28/06/2016 is quashed and set aside.

7. The Education Officer shall reconsider the proposal and if he is convinced that the transfer of the petitioners from unaided post to aided post is on 100% grant-in-aid, then approval to the appointment on the 100% grant-in-aid post be granted from the date of approval i.e. 01/08/2018. The said exercise be done expeditiously preferably within four weeks.

8. The writ petitions are disposed of. No costs.

(S. M. MODAK, J.)

(S.V. GANGAPURWALA, J.)