

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6164 OF 2021**

Swapnil Tanaji Kudale	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.632 OF 2021

Revati Suhas Kulkarni	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.631 OF 2021

Prajakta Abhijit Kulkarni	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.633 OF 2021

Supriya Vijay Alase	]	Petitioner
Vs.		
The State of Maharashtra	]	

Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.634 OF 2021

Priyanka Mohan Narmade	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.6183 OF 2021

Rohini Mahadev Parit	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.6180 OF 2021

Rukmini Ramchandra Kumbhar	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.6184 OF 2021

Seema Pravin Patil	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	

Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.6176 OF 2021

Ravindra Yuvraj Mole	]	Petitioner
----------------------	---	------------

Vs.

The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.6179 OF 2021

Ranjit Krishnarao Patil	]	Petitioner
-------------------------	---	------------

Vs.

The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.635 OF 2021

Amol Balwant Powar	]	Petitioner
--------------------	---	------------

Vs.

The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w

WRIT PETITION NO.869 OF 2021

Pradip Ramchandra Patil	]	Petitioner
-------------------------	---	------------

Vs.

The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w
WRIT PETITION NO.6177 OF 2021

Ratnakar Ashok Kamble	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w
WRIT PETITION NO.6166 OF 2021

Jinesh Ramesh Purwant	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w
WRIT PETITION NO.6185 OF 2021

Savita Prabhakar Zende	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w
WRIT PETITION NO.6186 OF 2021

Seema Sakharam Gavit	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

a/w
WRIT PETITION NO.6182 OF 2021

Sunil Shankar Rajmane	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondents

WRIT PETITION [STAMP] NO.15874 OF 2021

Tejashri Gorakhnath Shingade	]	Petitioner
Vs.		
The State of Maharashtra	]	
Through the Secretary,	]	
School Education and Sports	]	
Department, Mantralaya, Mumbai	]	
400 032 and others.	]	Respondent

.....

Mr. Prashant Bhavke, for Petitioners.
 Mr. N.K. Rajpurohit, A.G.P, for Respondents No.1 to 5 -State.
 Mr. Utkarsh S. Desai, for Respondents No.6 and 7.

.....

**CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.**

DATE : 10th MARCH, 2022.

P.C.

1. Writ Petition [Stamp] No.15874 of 2021 is not on board.
Mentioned. Taken on board.
2. Heard.

3. Rule. Rule is made returnable forthwith. Heard finally by consent of learned Counsel for the parties.

4. Grievance of the petitioners is not about grant of approval to their transfer from unaided post to the aided post in the School run by the same management but their grievance is about granting approval subject to the condition of payment of salary on a staggered basis by relying upon sub clause (5) (b) of clause 3 of the Government Resolution dated 28th June, 2016.

5. Learned Counsel for the petitioners submits that such reliance is impermissible when this Government Resolution held to be non applicable in such cases in several judgments delivered by this Court including the one in the case of **Rupali Nitin Malpure Vs. State of Maharashtra and others, Writ Petition No.3797 of 2021** decided on 2nd March, 2022.

6. Mr. Rajpurohit, learned A.G.P. of course disagrees.

7. Mr. Bhavake, learned Counsel for the petitioners is right in his submission. In several judgments including the one referred to earlier, this Court has taken a view that sub clause (5) (b) of clause (3) of the Government Resolution dated 28th June, 2016 would apply only to cases where Government sanctions new post and new appointment is to be made in the aided school and that it would not have any application to grant of approval to an Assistant Teacher who has been initially appointed to unaided post and who is sought to be appointed to aided post upon his transfer

in a school run by the same management. The impugned orders, therefore, are illegal and they must go.

8. The petitions are allowed in terms of prayer clause (b).

9. The impugned orders are hereby quashed and set aside.

10. Respondent No.5 – Education Officer is directed to issue correct orders within two weeks from the date of this order.

11. Rule is made absolute in the above terms. No costs.

[G.A. SANAP, J.]

[SUNIL B. SHUKRE, J.]