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

WRIT PETITION NO. 11455 OF 2022

Jaitun Abdul Shaikh & Anr. Petitioners
Vs.
State of Maharashtra & Ors. Respondents

WRIT PETITION NO. 11490 OF 2022

Nikita Rupesh Khedekar & Anr. Petitioners
Vs.
State of Maharashtra & Ors. Respondents

WRIT PETITION NO. 11491 OF 2022

Priyanka Jagannath Pawar & Anr. Petitioners
Vs.
State of Maharashtra & Ors. Respondents

Mr. N. V. Bandiwadekar I/b. Sou. Ashwini Bandiwadekar for the
Petitioners
Mr. A. P. Vanarase, AGP for the State

**CORAM: S.V.GANGAPURWALA &
R.N. LADDHA, JJ.**

DATED : SEPTEMBER 27, 2022

P.C.

1 The proposal seeking approval to the transfer of the
Petitioners from unaided to aided posts is approved, however on
payment of salary in phase-wise manner from the date of transfer.

2 We have heard learned counsel for the Petitioners and the
learned AGP for the Respondent-State.

3 The *prima donna* contention is that the services rendered on the unaided post has not been considered.

4 Approval, it appears is given relying upon the Circular dated 28th June 2016.

5 This Court in Writ Petition No.1493 of 2018 with connected Writ Petitions under order dated 4th July 2019 has held that some of the clauses of the Circular dated 28th June 2016 are erroneous and cannot be relied upon. The services rendered on the unaided post are required to be considered.

6 If the employee has rendered three years or more service, on unaided post as Assistant Teacher and is transferred to the aided post, then the approval has to be on 100% grant-in-aid post as an Assistant Teacher.

7 In case the candidate has only completed two years service on the unaided post and is transferred to the 100% grant-in-aid post, then for a period of one year he will have to be approved as Shikshan Sevak and thereafter, as an Assistant Teacher. In the present case, the Chart giving details of the appointment of the Petitioners on the unaided posts, date of transfer and the date of approval to the unaided posts is reproduced hereunder:

Sr. No.	W.P. No.	Name of Petitioner	Un-aided Appointment	Un-aided Approval	Transfer to 100% Aided	Transfer approval
1	11455/2022	Smt. Jaitun Abdul Shaikh	15.06.2013	04.05.2015	17.06.2019	20.04.2021
2	11490/2022	Mrs. Nikita Rupesh Khedkar	15.06.2013	31.03.2015	17.06.2019	20.4.2021
3	11491/2022	Ms. Priyanka Jagannath Pawar	11.07.2011	19.05.2017	01.11.2018	20.04.2021

8 It transpires that all the Petitioners have completed three years or more service on the unaided post. If they are transferred on 100% grant-in-aid post, then they are to be approved as an Assistant Teacher on 100% grant-in-aid post.

9 The Education Officer shall confirm the date of the transfer on 100% grant-in-aid post and if it is convinced that the transfer of the Petitioners is on 100% grant-in-aid then shall approve them accordingly.

10 The impugned order to the extent of approval for the transfer on payment of phasewise salary are quashed and set aside. The said exercise be done within four months from today.

11 The Writ Petitions are accordingly disposed of. No costs.

(R.N. LADDHA,J.)

(S.V. GANGAPURWALA, J.)