

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7927 OF 2022

Rashid Maheboob Shaikh ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WITH
WRIT PETITION NO. 277 OF 2022

Swati Sudamrao Abhang ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WITH
WRIT PETITION NO. 278 OF 2022

Jagadish Vasant Dusane ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WITH
WRIT PETITION NO. 7928 OF 2022

Manik Ramnath Sanap ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WITH
WRIT PETITION NO. 279 OF 2022

Rekha Prabhakar Tayde ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

WITH
WRIT PETITION NO. 280 OF 2022

Radhakisan Tukaram Sanap ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

**WITH
WRIT PETITION NO. 276 OF 2022**

Janardhan Fakira Ashtekar ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

**WITH
WRIT PETITION NO. 274 OF 2022**

Nanvath Namdeo Patil ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

**WITH
WRIT PETITION NO. 7929 OF 2022**

Mandakini Shriram Nikam ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

**WITH
WRIT PETITION NO. 7930 OF 2022**

Pundlik Sahadu Lokhande ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

**WITH
WRIT PETITION NO. 271 OF 2022**

Dnyaneshwar Dattu Darade ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

**WITH
WRIT PETITION NO. 272 OF 2022**

Dodha Ananda Bhadane ... **Petitioner**
Versus
The State of Maharashtra & Ors. ... **Respondents**

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

Mr. Y. D. Patil, AGP for the Respondents/State.

**CORAM: S.V. GANGAPURWALA &
SANDEEP V. MARNE, JJ.**
DATED : JULY 20, 2022

P.C.

1. In all these petitions, the petitioners are initially appointed on the unaided posts. They are appointed on the unaided posts in between the years 2007 and 2010. It is submitted by the learned Counsel for the petitioners that appointments on unaided posts are approved. Thereafter, the petitioners are transferred to the aided post in between the years 2016 and 2018 i.e. prior to the amendment incorporated by virtue of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

2. The Education Officer has granted approval to the transfer of petitioners on aided posts, but in phase-wise grant manner from the date of transfer.

3. We have heard learned Counsel for the petitioners and learned AGP for the respondents/State.

4. The approval has been granted on the aided posts in phase-wise grant-in-aid manner on the basis of Circular dated 28th June 2016.

5. This Court in his judgment and order 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 28th June 2016 are erroneous.

6. It is further held that if the employee has served for more than three years on unaided post and transferred to 100% grant-in-aid post then approval has to be granted on

100% grant-in-aid from the date of transfer.

7. In the present matters all the petitioners are transferred to the 100% grant-in-aid posts and prior to their transfers, they have rendered more than five years service on the unaided post.

8. In view of that, if the petitioners are transferred to 100% grant-in-aid post, then the approval has to be given on 100% grant-in-aid from the date of transfer.

9. In light of that, the impugned orders to the extent of granting approval to the transfers of the petitioners in phase-wise grant-in-aid manner is quashed and set aside. The Education Officer shall confirm himself about the transfer of petitioners to the 100% grant-in-aid posts and if convinced that transfers of the petitioners were on 100% grant-in-aid posts then shall grant approval to the transfer of petitioners to 100% grant-in-aid posts from the date of transfer to aided posts.

10. We have passed the aforesaid order as the Education Officer has granted approval to the transfers of petitioners from unaided to aided posts meaning thereby the Education Officer is convinced about the seniority, roaster and educational qualification of the petitioners.

11. The aforesaid exercise be done within four months from today.

12. The writ petitions are accordingly disposed. No costs.

(SANDEEP V. MARNE, J.)

(S.V. GANGAPURWALA, J.)