

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9042 OF 2021

Sandip Dyaneshwar Panhale

..... Petitioner

Vs.

The State of Maharashtra & Ors.

..... Respondents

Mr. Rahul S. Kadam for the Petitioner.

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

**CORAM: S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : AUGUST 11, 2022

P.C.

1. The proposal seeking approval to the transfer of the Petitioner on aided post is rejected.
2. We have heard the learned counsel for the respective parties.
3. The learned AGP submits that as far as the approval granted in the year 2013 is concerned, the Deputy Director of Education has given a notice to the parties and the Petitioner has filed reply.
4. Upon perusal of the impugned order, it appears that the Education Officer raised an objection to the approval granted to the appointment of the Petitioner on the unaided post in the year 2005. The approval was granted to the appointment of the Petitioner as an Assistant Teacher to the unaided post in the year 2013.
5. The Petitioner is working as an Assistant Teacher since 2005. The

approval has been granted to the appointment of the Petitioner in the year 2013. It appears that the objection is raised to the approval granted to the Petitioner in the year 2013. The same at this stage is now unreasonable. It is not the case that the Petitioner had got the order of approval by playing fraud or misrepresentation by suppressing the facts. The other objections are also raised with regard to the seniority list and the approved roaster, which certainly can be considered by the Education Officer. The Management has not placed on record the Seniority list and the approved roaster.

6. In the light of above, we pass the following order:-

ORDER

(i) Ground Nos.1 and 2 in the impugned order is quashed and set aside.

(ii) Respondent No.3 shall consider the services of the Petitioner on unaided post as validly approved. The Petitioner is transferred to the aided post on 01.06.2020 prior to the amended Rule 41(A) of the Maharashtra Employees of Private Schools Conditions of Service Regulation Act, 1977 (MEPS Rules). In view of that, Rule 41(A) of the MEPS Rules would not apply.

(iii) The Management shall place before the Education Officer the seniority list and the approved roaster, so as to consider the proposal of the Petitioner for approval to the transfer from unaided to aided post.

(iv) The Education Officer shall reconsider the proposal in the light of the observations made herein above and shall decide it within four (4)

months from today. It shall not reject the proposal on the ground that the approval to the appointment of the Petitioner on unaided post was not proper or that at the time of appointment, the roaster was not verified.

7. The Writ Petition is disposed of. No costs.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)