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

WRIT PETITION NO.4359 OF 2022

Ms. Babita Dharendra Mishra & Anr. ... Petitioners
Versus
The State of Maharashtra & Anr. ... Respondents

Mr. N.V. Bandiwadekar i/b Ms. Ashwini Bandiwadekar for the Petitioners.
Mrs. P.J. Gavhane AGP for the Respondent-State.
Mr. Sandip Shinde for Respondent No.2.

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

DATED : 21ST JUNE 2022

P.C. :

1. The learned counsel for the Petitioners submits that Petitioner No.2 is a minority institution and certificate to that effect is issued on 28th December 2020.

2. The transfer of Petitioner No.1 from the un-aided post to aided post is refused on the ground that surplus candidates are required to be absorbed. The transfer of Petitioner No.1 from un-aided post to aided post is made on 1st December 2020. The same is after amendment to Rule 41A of the M.E.P.S. Rules. In normal course Rule 41A of the M.E.P.S. Rules would not permit such transfer on the conditions as enumerated in Rule 41A and the Rules as amended in August 2020 will apply. However, considering the fact that Petitioner No.2 is a minority institution the

condition of absorbing surplus candidates would not arise.

3. In the light of that the impugned order is quashed and set aside. Respondent No.2 shall reconsider the proposal seeking transfer of Petitioner No.1 from the un-aided post to aided post on its own merits and shall decide the same within four months.

4. All contentions of respective parties are kept open.

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

(S. M. MODAK, J.)

(S. V. GANGAPURWALA, J.)