

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.7648 OF 2022

**ASHOK BAPU KUDNAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS**

...
Advocate for the Petitioner : Shri K.G. Patil h/f Shri V.H.Dighe
AGP for Respondents 1 and 2 : Shri S.G. Sangle
Advocate for Respondent 3 : Shri S.S. Wagh
...

**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 06th February, 2023

Per Court :-

1. The petitioner has put forth prayer clauses B and C
as under :-

- “B) *Issue writ of mandamus, or any other appropriate writ, order or directions in the nature of writ of mandamus directing the respondent No. 2 - Deputy Director of Education, Pune, to grant approval to the appointment of the petitioner as a Full Time Assistant Teacher from 01.08.2020 as per proposal submitted by respondent No. 3 management and necessary orders. for that purpose issue*
- C) *To quash and set aside, the impugned order dated 30.06.2022 issued by respondent No. 2 Deputy Director of Education, Pune rejecting the proposal submitted by the respondent No. 3 management for grant the approval to the appointment of petitioner as a Full Time Assistant Teacher and for that purpose issue necessary orders.”*

2. We have considered the submissions of the learned advocates for the respective sides and the learned AGP on behalf of the statutory authorities. Considering the order that we are passing, we are not required to advert to the entire submissions of the learned advocates. Suffice it to say that the petitioner has been working as a part-time Assistant Teacher since 15.06.2015. He has the requisite qualifications and is a graduate in two streams besides being Master of Arts. He has been absorbed by the Management from the part-time grant-in-aid post to the full time grant-in-aid post, which has fallen vacant. The Deputy Director of Education, Pune, has rejected the proposal of the petitioner for approval vide the impugned order dated 30.06.2022, only for the reason that there is no scheme or provision for granting approval to the absorption of the part-time Assistant Teacher on the post of the full time Assistant Teacher. Suffice it to say that the said authority has obviously lost sight of the circular dated 31.01.2001 wherein, it is specifically stated as under :-

“शासन परिपत्रक:- कनिष्ठ महाविद्यालयीन स्तरावर शिक्षकाची पूर्णवेळ जागा निर्माण झाल्यास त्या ठिकाणी काम करणाऱ्या अर्धवेळ शिक्षकाची नियुक्ती पूर्णवेळ शिक्षक म्हणून करण्याबाबचा प्रश्न शासनाच्या विचाराधीन होता. आता खाली नमूद केलेल्या अटींना अधिन राहून अर्धवेळ शिक्षक कार्यरत असलेल्या ठिकाणी कार्यभार वाढल्यामुळे पूर्णवेळ शिक्षकाचे पद निर्माण झाल्यास त्या ठिकाणी कार्यरत अर्धवेळ शिक्षकास पूर्णवेळ शिक्षक

म्हणून नियुक्त करण्यात यावे.

१) एकाच संस्थेत अर्धवेळ शिक्षक म्हणून कार्यरत असताना त्याच संस्थेत पूर्णवेळ पद निर्माण झाल्यास विषय साधर्म्य व मागासवर्गिय आरक्षण ही तत्वे पाळून, त्या पदावर कार्यरत असलेल्या "अर्धवेळ शिक्षकाची" "पूर्णवेळ शिक्षक" म्हणून नियुक्ती करण्यात यावी.

२) संस्थेत निर्माण झालेले पद आरक्षणानुसार राखीव पद ठरत असल्यास व अर्धवेळ शिक्षक खुल्या प्रवर्गातील असल्यास त्यास पूर्णवेळ शिक्षकाच्या पदावर उन्नत करता येणार नाही. मात्र आरक्षणानुसार येणाऱ्या संवर्गातील अर्धवेळ शिक्षक असल्यास, पूर्णवेळ शिक्षकाच्या पदी त्याची नियुक्ती करता येईल.

३) ज्या अर्धवेळ शिक्षकाची नियुक्ती संस्थेने शासन मान्य वेतनश्रेणीत केली असेल. सन १९९९-२००० या वर्षात विभागाच्या मान्यतेने वेतन प्राप्त केले असेल त्या अर्धवेळ शिक्षकास पूर्णवेळ शिक्षण पदी केलेल्या नियुक्तीच्या तारखेपासून पूर्णवेळ शिक्षकाची वेतनश्रेणी अनुज्ञेय ठरेल.

वरीलप्रमाणे सर्व विभागात याची काटेकोरपणे अंमलबजावणी करण्यात यावी.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने,

- स्वाक्षरीत / -

(नं.ग. तडवी)

कक्ष अधिकारी, महाराष्ट्र शासन"

3. In view of the above, **this Writ Petition is partly allowed.** The impugned order dated 30.06.2022 is quashed and set aside. Respondent No.2 would consider the circular reproduced above and pass a fresh order, on or before 28.02.2023.