

SGPunde

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

WRIT PETITION NO. 226 OF 2023

Mahadev Thakaji Kadam,

Age : 46 years, Occu. Service as Assistant Teacher,

R/o. Agaskhand, Tq. Pathardi,

Dist. Ahmednagar.

...Petitioner

Versus

1] The State of Maharashtra,
Through its Secretary,
Education Department,
Mantralaya, Mumbai.

2] The Dy. Director of Education,
Pune Division, Pune.

3] The Education Officer (Secondary),
Zilla Parishad, Ahmednagar

4] Shri. Yashwant Gram Seva Pratisthan,
Dulechandgaon, Tq. Pathardi,
Dist. Ahmednagar,
through its President/Secretary

5] Shri. Bhairavnath Madhyamik Vidyalay,
Sirsathwadi, Tq. Pathardi, Dist. Ahmednagar,
Through its Head Master.

...Respondents

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Mr. V. S. Panpatte – Advocate for the petitioner

Mr. S. B. Pulkundwar – AGP for State

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**CORAM : S. V. GANGAPURWALA, ACJ
AND
GAURI GODSE, J.**

DATED : 24TH JANUARY, 2023

ORAL JUDGMENT [PER S. V. GANGAPURWALA, ACJ]:-

1. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal.
2. Heard learned counsel for the petitioner and the learned AGP.
3. The petitioner claims to have appointed on 15th June, 2009 as an Assistant Teacher on unaided post. On or about 28th July, 2016, the petitioner was transferred to the aided division. It is also submitted by the learned counsel for the petitioner that the petitioner was transferred on 100% aided division with effect from 01st August, 2016. The transfer of the petitioner to the aided post is approved, however, it is in a phase wise grant-in-aid manner.
4. This Court in its judgment and order dated 04th July, 2019 delivered in Writ Petition No. 1493 of 2018 with other connected writ petitions has held that if the Assistant Teacher has rendered more than three years of service on unaided post and thereafter transferred to 100% grant-in-aid post, then the approval has to be granted on 100% grant-in-aid post. Under the said

judgment, this Court has held the Circular dated 28th June, 2016 as erroneous.

5. In light of the above, the impugned approval order dated 19.09.2019, to the extent of granting approval in phase-wise manner, is quashed and set aside.

6. The Education Officer shall confirm for itself that the transfer of the petitioner w.e.f. 01.08.2016 was on 100% grant in aid post and if he is convinced that the transfer of the petitioner was on 100% grant-in-aid post and that the petitioner had completed three years of service on unaided post, then the approval shall be granted from the date of transfer to the aided post on 100% grant-in-aid. The necessary exercise shall be done expeditiously, preferably within four months from today.

7. The impugned communication dated 12.07.2022 as such is also quashed and set aside.

8. Rule made absolute in the aforesaid terms. No costs.

[GAURI GODSE, J.]

[ACTING CHIEF JUSTICE]