

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

WRIT PETITION NO.11313 OF 2023

**BHUSHAN SAKHARAM JADHAV
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE PRINCIPAL
SECRETARY AND OTHERS**

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Ms A. S. Jadhav, Advocate for Petitioner
Mr. A. V. Deshmukh, AGP for Respondent – State

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 12.09.2023

PER COURT :-

1. The Petitioner prays that this Court should issue a Writ of Mandamus to a private education society to transfer the Petitioner from the unaided establishment to the vacant post in the grant-in-aid establishment.

2. Respondent Nos.3 and 4 are not within the definition of 'State' under Article 12 and there is no public duty cast in the management to transfer a candidate from the unaided to the aided category. Keeping in view the judgment delivered by the Hon'ble

Supreme Court in *St. Mary's Education Society and Another Vs. Rajendra Prasad Bhargava and others - 2022 SCC OnLine SC 1091*, we would not be able to entertain this Petition to this extent.

3. However, the Deputy Director of Education has delivered an order on 22.05.2023 in the backdrop of the direction of this Court dated 10.04.2023 in Writ Petition No.3924 of 2023 filed by Sachin Govind Bibave Vs. The State of Maharashtra and others. It is now the duty of the Deputy Director of Education to ensure that this decision is implemented.

4. In view of the above, **this Petition is disposed off.** Let Respondent No.2 initiate appropriate steps by following the due procedure laid down in law and by giving an adequate opportunity of hearing to Respondent Nos. 3, 4 and the Petitioner, ensure that its decision dated 22.05.2023 is implemented.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

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