

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

WRIT PETITION NO.11470 OF 2022

**VISHNU GANGADHAR SONPEER AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS**

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Advocate for Petitioners : Mr. V.S. Panpatte
AGP for Respondents: Mr. A.S. Shinde.
Advocate for respondent Nos. 3 to 6 : Mr. S.S, Deshmukh.

**CORAM : MANGESH S. PATIL
& S.G. CHAPALGAONKAR, JJ.**

DATE : 14th JUNE, 2023

P.C.:-

Heard learned counsel for the petitioner and learned AGP
Perused the papers.

2. The petitioners, who have been transferred from un-aided division to the division receiving grants, are seeking approval to their such transfer. By the impugned order/communication, the respondent Education officer refused to grant approval on the sole count that though they are the senior-most in the list, said transfer is in not in accordance with the Section 5(1) of the Maharashtra Employees of Private Schools (Conditions of Service) Regularion Act and the Government circular dated 1.4.2021.

3. Admittedly, it is a matter of transfer and not a case of fresh appointment, later being governed by Section 5(1) but not the former. The whole basis for passing the impugned order is misconceived for this reason alone. The petitioners are seeking approval to the transfer and not seeking any approval to their initial appointment, which was already granted vide communications dated 8.1.2023 (Exhibit A) and dated 27.1.2014 (Exh.B), in respect of these two petitioners.

4. Suffice for the purpose to observe that this Court has consistently held that the request for seeking approval to the transfer from un-aided to aided division, as contemplated under Rule 41-A of the MEPS (Conditions of Service) Rules, 1981 would not be governed by Section 5(1) of the MEPS Act.

5. In view of above, the impugned orders are not sustainable on the ground on which the Education Officer has refused to grant approval.

6. The writ petition is partly allowed. The impugned communications/orders are set aside. The matter shall be considered afresh by the respondent Education Officer, Secondary, Zilla Parishad, Beed, on its own merits, as expeditiously as possible and in any case, within a period of six weeks, but shall not be rejected on the grounds which formed the basis for passing the impugned orders.

[S.G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

grt/-