

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

**WRIT PETITION NO.14938 OF 2022**

Nandkishor Pandurang Pachpute, ]  
Age : 42 Yrs., Occ.: Teacher, ]  
New English School, Khamgaon, ]  
Tal. Junnar, Dist. Pune ] .. Petitioner

Vs.

1. State of Maharashtra, ]  
Summons to be served on the learned ]  
Government Pleader appearing for ]  
State of Maharashtra under Order XXVII, ]  
Rule 4, of the Code of Civil Procedure, 1908. ]  
2. Education Officer (Secondary), ]  
Pune Zilla Parishad, Pune. ]  
3. Vighnagar Dalit Sarvangin Vikas Mandal, ]  
Pimpalwandi, Tal. Junnar, Dist. Pune ] .. Respondents

Mr. Rahul S. Kadam for the Petitioner.

Mr. V.M. Mali, AGP for Respondent Nos.1 and 2-State.

**CORAM : A.S. CHANDURKAR &**  
**FIRDOSH P. POONIWALLA, JJ**

**DATE : 4<sup>TH</sup> DECEMBER, 2023.**

**ORAL JUDGMENT : { Per A.S. Chandurkar, J. }**

1. RULE. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. The petitioner, who came to be appointed as Assistant Teacher on a post that was unreserved on 14<sup>th</sup> June 2006, is aggrieved by the communication

dated 7<sup>th</sup> November 2022 issued by the Education Officer (Secondary), Zilla Parishad, Pune, refusing to approve the petitioner's transfer from an unaided post to an aided post.

3. After hearing the learned counsel for the parties and after perusing the documents on record, we find that various considerations that are not material for being taken into consideration while approving transfer of an employee from an aided post to an unaided post have been referred to. These aspects include submission of staff justification, mode of recruitment of the petitioner and obtaining permission prior to filling-in the post in question. It is seen that the petitioner's initial appointment on 14<sup>th</sup> June 2006 on an unaided post has been duly approved by the Education Officer (Secondary) on 11<sup>th</sup> July 2013. Once the petitioner's appointment has been duly approved, the only aspect to be considered is whether the transfer of the petitioner, as per the Transfer Order dated 1<sup>st</sup> June 2022, is in accordance with Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. On this ground, therefore, the impugned communication is found to be unsustainable. The re-consideration of the proposal is thus required.

4. Accordingly, the following order is passed :-

- (i) The communication dated 7<sup>th</sup> November 2022 issued by the Education Officer (Secondary), Zilla Parishad, Pune is quashed and set aside.

- (ii) The proposal of the petitioner dated 7<sup>th</sup> June 2022, seeking approval to the petitioner's transfer from an unaided post to an aided post, shall be re-considered in the light of the observations made here-in-above.
- (iii) The proposal shall not be rejected on the ground that the petitioner's initial appointment was not in accordance with law in the light of the fact that his appointment was duly approved on an unaided post on 11<sup>th</sup> July 2013.
- (iv) The proposal shall be decided within a period of six weeks of receiving a copy of this order.
- (v) The same be done after hearing the petitioner and the representative of respondent no.3.
- (vi) The decision taken shall be communicated to the parties.
- (vii) In case the petitioner's transfer is approved, all consequential benefits shall be made admissible to the petitioner.

5. Rule is disposed of in the aforesaid terms.

[ FIRDOSH P. POONIWALLA, J. ]

[ A.S. CHANDURKAR, J. ]