



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4385 OF 2022

Sandip Dhansing Chvariya
Age: 40 years, Occu.: Service,
Having official address as
Bhagirath English Medium School
Sane Guruji Colony, Jalgaon,
Tq. & Dist. Jalgaon.

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
Sports and Education Department,
Mantralaya, Mumbai.
2. The Deputy Director of Education,
Division Nasik, Dist. Nasik.
3. The Education Officer (Secondary)
Zilla Parishad, Jalgaon,
Tq. And Dist. Jalgaon.
4. The Headmaster,
Bhagirath English Medium School
Sane Guruji Colony, Jalgaon,
Tq. And Dist. Jalgaon.
5. Khandesh Union Education Society
Through its Secretary,
Having Officer address at
Bhagirath English Medium School
Sane Guruji Colony, Jalgaon,
Tq. And Dist. Jalgaon.

.. RESPONDENTS

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WITH

WRIT PETITION NO.4366 OF 2022

Pradnya Dilip Rane
Age; 30 years, Occu.: Service,
Having Official address as
Bhagirath English Medium School
Sane Guruji Colony, Jalgaon,
Tq. And Dist. Jalgaon.

.. PETITIONER

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
Sports and Education Department,
Mantralaya, Mumbai.
2. The Deputy Director of Education,
Division Nasik, Dist. Nasik.
3. The Education Officer (Secondary)
Zilla Parishad, Jalgaon,
Tq. And Dist. Jalgaon.
4. The Headmaster,
Bhagirath English Medium School
Sane Guruji Colony, Jalgaon,
Tq. And Dist. Jalgaon.
5. Khandesh Union Education Society
Through its Secretary,
Having Officer address at
Bhagirath English Medium School
Sane Guruji Colony, Jalgaon,
Tq. And Dist. Jalgaon.

.. RESPONDENTS

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Mr. J. V. Patil, Advocate for the petitioners in both the writ petitions.
Mr. P. S. Patil, AGP for respondent Nos.1 to 3 – State in both the writ petitions.
Mr. Y. B. Bolkar, Advocate for respondent Nos.4 and 5 in both the writ petitions.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

DATE : FEBRUARY 29, 2024.

ORDER [Per Smt. Vibha Kankanwadi, J.] :-

. Writ Petition No.4385 of 2022 has been filed for issuing writ of mandamus to direct respondent Nos.2 and 3 to modify the order dated 22.09.2021 passed by Deputy Director of Education and order dated

01.03.2021 issued by the Education Officer (Secondary), Zilla Parishad, Jalgaon by granting approval to the transfer of petitioner Sandip as Peon (100% Aided) and inserting his name in Shalarth as Peon (100% Aided) instead of Peon unaided i.e. in respect of the column only, whereas Writ Petition No.4566 of 2022 has been filed for issuing writ of mandamus to direct respondent Nos.2 and 3 to modify the order dated 21.09.2019 passed by Deputy Director of Education and order dated 02.02.2019 issued by the Education Officer (Secondary), Zilla Parishad, Jalgaon by granting approval to the transfer of the petitioner Pradnya as Assistant Teacher instead of Shikshan Sevak and inserting her name in Shalarth as Assistant Teacher (100% Aided) instead of Shikshan Sevak.

2. It is not in dispute that both the petitioners are employed in Bhagirath English Medium School, Jalgaon run by respondent No.5. Petitioner Pradnya was appointed as Assistant Teacher and Petitioner Sandip came to be appointed as Peon. Their appointments were as per the procedure. Their appointments came to be approved on 20.05.2017 and 30.09.2018 respectively. Thereafter, both have been transferred from unaided to aided by order dated 29.01.2021 and 31.05.2019 respectively. By order dated 09.03.2021 and 02.02.2019, their transfers came to be approved by the Education Officer (Secondary), Zilla Parishad, Jalgaon. However, it appears that a

mistake was committed in the column of salary. Unless the correct figures are mentioned and also the designation, their name cannot be included in Shalarth Pranali and till then they will not be able to get their salary. As regards petitioner Pradnya is concerned, initial approval should have been Assistant Teacher instead of Shikshan Sevak and, therefore, the correction is necessary. Proposal to that effect was given to respondent Nos.2 and 3, however, there was no response. Hence, these petitions.

3. Heard learned Advocate Mr. J. V. Patil for the petitioner, learned AGP Mr. P. S. Patil for respondent Nos.1 to 3 – State and learned Advocate Mr. Y. B. Bolkar for respondent Nos.4 and 5. In order to cut short, it can be said that all of them have made submissions in support of their respective contentions.

4. It is to be noted that as per the judgment of this Court in **Suryakant s/o Janardan Muge Vs. State of Maharashtra and others**, [Writ Petition No.1493 of 2018 with connected matters decided on 04.07.2019], it was held that while granting approvals to the transfers of the petitioners from unaided to aided posts, the Education Officer is required to grant approval to them as Assistant Teachers and not as Shikshan Sevak. The said decision was reiterated by this Court in **Vaishali Balaji Padole and others Vs. The State of Maharashtra and others**, [Writ Petition No.14265 of 2019 with connected matter decided

on 26.11.2019]. Here, it can be clearly seen from the impugned order that the Education Officer (Secondary) while granting transfer has not considered the ratio laid down in **Suryakant Muge (Supra)** and **Vaishali Padole (Supra)**. Similarly, in respect of Petitioner Sandip, though he came to be appointed as Peon, his salary / pay scale has not been properly mentioned.

5. In view of the above-said reasons, the writ petitions deserve to be allowed. Hence, the following order :-

ORDER

I) Both the Writ Petitions stand allowed in terms of prayer clause 'A' in both the petitions.

II) Necessary corrections be carried out within a period of 15 days by respondent Nos.2 and 3. Then the corrected approval be sent. Thereafter the necessary consequence to follow i.e. preparation of pay bills and payment of salary, which should take place within a period of one month thereafter.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm