



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5934 OF 2024

Sachin s/o Nanasaheb Patil
Age: 38 years, Occu.: Service,
R/o. Shindad, Tal. Pachora,
District Jalgaon – 424202.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
Through it's Principal Secretary,
Sports and Education Department,
Mantralaya, Mumbai-32.
2. The Deputy Director of Education,
Nashik Region, Nashik.
3. The Education Officer (Secondary),
Zilla Parishad, Jalgaon.
4. Dr. R. M. L. M. & High School,
Bamrud (R.), Ta. Pachora,
Dist. Jalgaon, Through it's
Head Master.

.. RESPONDENTS

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Mr. Ramesh I. Wakode, Advocate for the petitioner.
Mr. P. S. Patil, AGP for respondent Nos.1 to 3 – State.
Mr. Vasant B. Patil, Advocate for respondent No.4.

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**CORAM : MANGESH S. PATIL AND
SHAILESH P BRAHME, JJ.**

DATE : 21 JUNE 2024

ORDER (Per Shailesh P. Brahme, J.) :-

1. Heard both the sides finally at the stage of admission.
2. Petitioner is challenging order of approval dated 26.07.2016 being defective. It is against settled principles of law laid down in the

matter of **Rupali Nandkumar Rasane Vs. The State of Maharashtra and others**, [Writ Petition No.5434 of 2022 decided on 14.06.2022] and **Bhushan s/o Sukhdeo Patil Vs. State of Maharashtra and Ors.** [Writ Petition No.6363 of 2020 decided on 18.09.2020].

3. Undisputedly, petitioner was appointed as Assistant Teacher on non grant basis with respondent No.4 by order dated 29.01.2014. The appointment was approved by respondent No.3 Education Officer vide order dated 27.08.2014. After completion of period of probation, petitioner was continued on regular scale and he was granted permanent approval by respondent No.3 Education Officer by order dated 18.04.2016.

4. He was transferred to the aided post by order dated 11.07.2016. After the transfer on aided section, a proposal was submitted by the Management seeking approval. By impugned order, petitioner was granted approval as a Shikshan Sevak on honorarium basis from 11.07.2016 to 10.07.2019 as per Government Resolution dated 28.06.2016. Thereafter, he was granted approval as Assistant Teacher on regular scale vide order dated 30.08.2019.

5. Learned Counsel Mr. R. I. Wakode submits that impugned order of approval is defective and against settled position of law. Petitioner had already completed period of probation as Assistant Teacher and was granted approval on 18.04.2016. At the time of transfer, he had

completed two years five months and therefore, he should have been granted approval as an Assistant Teacher after his transfer.

6. Learned AGP supports the impugned order. According to him, the petitioner was transferred from unaided section on 11.07.2016. He is not entitled to work as an Assistant Teacher unless he completes period of three years as Shikshan Sevak in aided section.

7. Learned Counsel for respondent No.4 supports the petitioner.

8. Initial appointment of the petitioner as an Assistant Teacher was approved by order dated 01.02.2014, albeit in unaided section/division. After completion of probation, his continuation on regular scale has also been approved vide order dated 18.04.2016. At the time of transfer, he had completed two years and five months as Assistant Teacher. The approvals granted to the petitioner have not been questioned. His appointment can be said to have been made after following due procedure of law.

9. Learned Counsel for the petitioner has rightly referred to the judgment in the matter of **Bhushan s/o Sukhdeo Patil (Supra)** and **Dhananjay Hirachand Shinde Vs. The State of Maharashtra and Ors.** [Writ Petition No.7751 of 2020 and connected petitions decided on **19.01.2021**] that the services rendered on unaided post should be counted for granting approval. Similar view is taken in the matter of

Rupali Rasane (Supra). Petitioner's earlier service of two years and four months needs to be counted. Then on 01.02.2017, he completes period of three years. Thereafter, he becomes Assistant Teacher on regular scale.

10. We are therefore inclined to allow present petition by passing following order :-

ORDER

- I) Writ Petition is allowed.
- II) Impugned order dated 26.07.2016 is quashed and set aside.
- III) Respondent No.3 Education Officer shall grant approval to the petitioner as an Assistant Teacher with effect from 02.02.2017 on 100% grant-in-aid basis, by issuing appropriate order of approval.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

scm