

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12151 OF 2023

Kirti Dwarkadas Tupkar And Others

VERSUS

The State Of Maharashtra Through Its Secretary And Others

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Advocate for the Petitioners : Dr. R.J. Godbole (through V.C.)

AGP for Respondent/State : Mr. S.P. Joshi

Advocate for Respondent No.3 : Mr. P.D. Suryawanshi

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CORAM : S.G. MEHARE &
S.G. CHAPALGAONKAR, JJ.

DATED : DECEMBER 17, 2024

PER COURT :

1. Heard Dr. R.J. Godbole, learned Advocate appearing for the petitioners, Mr. Joshi, learned AGP for the State and Mr. Suryawanshi, learned Advocate appearing for respondent no.3.

2. The petitioners impugn the order dated 01.06.2023 by which the proposal seeking approval to the transfer of the petitioners from non-aided to aided post has been declined. The only reason given is that such approval cannot be granted in view of the Government Circulars dated 01.12.2022 and 01.04.2021.

3. The issue raised in this petition is no more *res integra*. The reference can be given to the order of this Court dated 14.06.2023 in Writ Petition No.11470 of 2022. This Court observed that in the matter of transfer, the provisions regarding fresh appointment cannot be applied. The petitioners were already

appointed on establishment of the school and now sought to be accommodated against the post of receiving grant-in-aid. This Court has further observed that the provisions contained under Rule 41-A of the MEPS (Conditions of Service) Rules, 1981 would not be governed by Section 5(1) of the MEPS Act.

4. We adopt the same course and consequently partly allow this writ petition as under :

ORDER

(I) The impugned order/communication dated 01.06.2023 is quashed and set aside. The matter is remitted back to the Education Officer (Primary), Zilla Parishad, Beed for reconsideration.

(II) The Education Officer (Primary), Zilla Parishad, Beed shall reconsider it on its own merits, as expeditiously as possible and in any case, within a period of six weeks from today.

(III) However, he shall not reject proposal on the grounds which formed basis for passing the impugned order.

(IV) Writ Petition stands disposed of.

(S.G. CHAPALGAONKAR, J.)

(S.G. MEHARE, J.)