

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10899 OF 2024

Pandurang Maruti Gaikwad

...Petitioner

Versus

The State Of Maharashtra And Ors.

...Respondents

Mr. Prashant Bhavake, for Petitioner.

Mr. S.H. Kankal, AGP for Respondent Nos. 1 to 5.

Mr. Sushant a. Khatake for Respondent Nos.6 and 7.

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CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.

DATE : 14 AUGUST 2024

P.C.:

1. Heard learned for the parties.
2. One of the grounds taken in the impugned order is that as regards non teaching staff is concerned, there is no provision for transferring them from unaided to aided section within the Management.
3. Learned counsel for the Management has relied upon the order in the case of *Rajaram S. Mandale and Anr. V. State of Maharashtra and Anr.*¹ which is followed in the case of *Namdev Tukaram Patil and Anr. V. The State of Maharashtra and Anr.*².

1 2020 SCC OnLine Bom 7507

2 Writ Petition No. 3154 of 2021

4. We are also informed as regards non teaching staff that the State Government had issued a draft notification but it is not taken forward. The reply affidavit is filed. However, there is no clarity on this aspect.

5. We direct Respondent No. 3 Director of Education (Secondary and Higher Secondary), Pune to file an affidavit placing on record the stand of the Government as to whether under Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 the transfer of the 'non teaching staff' from unaided to aided section is permissible and if not the reasons and also the position of the draft notification.

6. Stand over to **4 September 2024**.

7. In case any coercive action is likely to be taken by the Education Officer, liberty to apply.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)