



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7898 OF 2025

Laxman s/o Dnyaneshwar Aware, ... **Petitioner**
Age 41 years, Occu: Service
R/o Patode Wadgaon, Tq. Paithan
District Chhatrapati Sambhajinagar

VERSUS

1. The State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai 400 032
2. The Education Officer (Primary) ... **Respondents**
Zilla Parishad, Chh. Sambhajinagar
3. The Secretary,
Dnyanranjan Shikshan Prasarak Mandal,
N-11, E-23/1, Mayurnagar, HUDCO,
Chh. Sambhajinagar
4. The Headmaster,
Netaji Subhash Marathi Primary School,
Indiranagar, Garkheda Parisar,
Chhatrapati Sambhajinagar

Mr. Imran Khan Guffar Khan Durrani, Advocate for the petitioner,
Mrs. S. S. Joshi, AGP for the Respondent No.1 State
Mr. V. C. Patil h/for Mr. U. B. Bondar, Advocate for Respondent No.2.

CORAM : MANISH PITALE &
Y. G. KHOBRAGADE, JJ.
DATED : 10.07.2025

ORDER (Per: Y. G. Khobragade, J.)

1. Heard learned counsel for the petitioner. Learned AGP appears on behalf of Respondent No.1 State. Learned counsel Mr. V. C. Patil appears on behalf of Respondent No.2 Education Officer. Respondent Nos. 3 and 4 are formal parties, therefore, notice is not required to be issued to them.

2. In this petition, the petitioner has put forth prayer clauses (B) and (C) as under:

(B) By issuing appropriate writ, order or directions in the like nature, the impugned order dated 09.05.2025 issued by Respondent No.2 may kindly be quashed and set aside.

(C) By issuing appropriate writ, order or directions in the like nature, Respondent No.2 be directed to grant approval to the proposal dated 10.02.2025.

3. The Petitioner is qualified as H. S. C., D.Ed. and he was appointed on 12.06.2006 as Shikshan Sevak by Respondent No.3 initially for a period of three years on probation in Nutan Primary School, a non-grant school. Said appointment was approved by the Respondent Education Officer. After completion of probation, Respondent No.3 Management confirmed his services on the post of Assistant Teacher w.e.f. 12.06.2009 and the said confirmation was

approved by Respondent No.2 Education vide its order dated 13.10.2011.

4. Respondent No. 3 is running two schools namely, Netaji Subhash Marathi Primary School Indiranagar and Nutan Primary School, Nakshatrawadi of Class 1st to 7th standard. On 31.05.2022, one teacher namely Sunanda Lalchand Bacchav superannuated from Netaji Subhash Marathi Primary School, an aided school. Therefore, the petitioner made a request to Respondent No.3 Management to transfer him on the vacant post in place of Sunanda Lalchand Bacchav. Accordingly, on 12.06.2022, Respondent No. 3 Management conducted a meeting and passed a resolution to transfer the petitioner from Nutan Primary School (non aided school) on the vacant post in Respondent No. 4 Netaji Subhash Marathi Primary School(aided school). The petitioner joined at the transferred place/post on 13.06.2022 with Respondent No.4 aided School. Accordingly, on 10.02.2025, Respondent No.3 Management forwarded a proposal of the petitioner for grant of approval to the transfer of the petitioner from unaided school to aided school, to Respondent No.2 Education Officer. However, on 09.05.2025, Respondent No.2 passed the impugned order and rejected the proposal stating that approval cannot be granted unless the surplus teachers declared for the academic years 2023-24 and 2024-25 are absorbed,

referring to Circular dated 01.12.2022, Government Resolution dated 29.04.2024 and subsequent Circular dated 03.10.2024.

5. The learned counsel for the petitioner placed reliance on the order dated 29.04.2025 passed in **Writ Petition No. 5628 of 2025 (Shetkari Shikshan Prasarak Mandal Vs. State of Maharashtra and others)**, wherein, this Court referred to Rules 41 and 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, and allowed the said Writ Petition in the following terms:-

“3. Though by the Government Resolution dated 29.04.2024 and subsequent Circular dated 03.10.2024, the Government has directed all such proposals seeking approval to the transfer effected under aforementioned rules to be forwarded to the State Government for taking approval to the decision, in the matter of Friends Social Circle and Ors. Vs. State of Maharashtra and Ors.; 2023 (5) ALL MR 601 as followed by subsequent decision, the relevant clause from the Government Resolution dated 29.04.2024 has been held to be inconsistent with the aforementioned rules which empower the Deputy Directors of Education and Education Officer to take appropriate decision on such proposal, have quashed and set aside the clause and consistently the several benches have been directing the proposals for approval to be considered de hors the Government Resolution and the Circular.

4. In the light of the above, the writ petition is allowed. The respondent No.3 – Education Officer (Secondary) shall consider all the proposals (Exhibit - D collectively) himself without referring to the Government Resolution dated 29.04.2024 and Circular dated 03.10.2024 on its own merits, as expeditiously as

possible and in any case within six weeks under intimation to the Management.”

6. In case of **Friends Social Circle and Ors. Vs. State of Maharashtra and Ors.; 2023 (5) ALL MR 601**, this Court has also quashed and set aside the Circular dated 21.12.2022, by which Rule 41A of the MEPS rules was kept in abeyance.

7. Since identical issues are raised in this Petition and similar directions are sought, this Petition is also allowed.

8. The impugned order dated 09.05. 2025 passed by respondent Education Officer is hereby quashed and set aside. The Respondent No.2 Education Officer (Primary), Chhatrapati Sambhaji Nagar is directed to consider the proposal of the Petitioner herein without referring to Circular dated 21.12.2022 the Government Resolution 29.04.2024 and Circular dated 03.10.2024, on its own merits, as expeditiously as possible and in any case within six weeks from today.

(Y. G. KHOBRAGADE, J.)

(MANISH PITALE, J.)

JPChavan