IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 WRIT PETITION NO. 7578 OF 2025

VIJAYKUMAR VENKATRAO VANTE AND ANOTHER
*VERSUS*
THE STATE OF MAHARASHTRA AND ANOTHER

...
Mr. Vijay V. Deshmukh – Advocate for Petitioners
Ms. Saie S. Joshi – AGP for Respondent Nos.1 and 2, State
...

CORAM : MANISH PITALE &
Y. G. KHOBRAGADE, JJ.
DATE : 01.07.2025

PER COURT :

1. Heard learned Counsel appearing for the parties.

2. Rule. Rule made returnable forthwith with consent of the parties.

3. According to learned Counsel for the petitioners, the issue arising in this petition is covered in favour of the petitioners as per the judgment and order dated 29.11.2021 passed in Writ Petition No. 2547 of 2021 *(Rahul Prakash Nilgar Vs. State of Maharashtra and Anr.)*. It is submitted that in the said judgment, it is clearly held that as per the statutory provisions under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and Rules framed thereunder, there can be transfer from unaided post to aided post in so

far as non–teaching staff is concerned. It is submitted that despite the said position, by the impugned order respondent No.2 – Deputy Director of Education has rejected the proposal of transfer of petitioner No.1, only on the ground that, there is no provision for such transfer from the post in unaided to school to aided school.

4. Learned A.G.P. could not distinguish the present case from aforementioned judgment, which is passed by this Court.

5. We have perused the judgment of Division Bench of this Court in Writ Petition No.2547 of 2021. The aforesaid question has been clearly decided by holding that Rule 41(1) of the M.E.P.S. Rules read with definition of School under Section 2(24) of the M.E.P.S. Act shows that, there can indeed be a transfer of non–teaching staff from post of unaided school to aided school.

6. In this backdrop, a perusal of the impugned order shows that the only ground on which the proposal for transfer of petitioner No.1 is rejected, is unsustainable and hence, the impugned order deserves to be quashed and set aside. It is further brought to the notice of this Court that the deficiencies pointed out by respondent No.2 by letter dated 17.04.2025 addressed to petitioner No.2 have all been cured.

7. In view of the above, the petition is allowed by setting aside the impugned order dated 23.04.2025 and respondent No.2 – Deputy

Director of Education is directed to grant approval to the transfer of petitioner No.1 from partially aided school to aided school on the post of Laboratory Assistant, subject to verification of curing of the said deficiencies.

8. Rule is made absolute in above terms.

9. Pending Civil Applications, if any, also stand disposed of.

10. Respondent No.2 – Deputy Director of Education is directed to abide by the above said directions expeditiously.

[ Y. G. KHOBRAGADE, J. ] [ MANISH PITALE, J. ]

Pooja Kale/