



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

955 WRIT PETITION NO. 10103 OF 2021

KARANKUMAR RASHTRAPAL SURALKAR

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioner : Mr. Panpatte V.S.
Addl.GP for Respondent/State : Mr. S.D. Ghayal
Advocate for Respondent No.3: Mr. Dheple S.R.

...

**CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.**

DATE : 05.12.2025

FINAL ORDER : (PER : ABASAHEB D. SHINDE, J.)

. Rule. Rule is made returnable forthwith. With the consent of parties, this Writ Petition is taken up for final hearing at the admission stage.

2. The challenge in this Writ Petition is to the impugned order dated 17.02.2020 by which instead of granting approval to the transfer of the petitioner from un-aided division to aided division to the post of 'Assistant Teacher', the Education Officer has approved the services of the petitioner as 'Shikshan Sevak'.

3. We have heard learned counsel for the petitioner as well as learned counsel appearing for the Respondent/Zilla Parishad. Admittedly, the petitioner initially was appointed as an 'Assistant Teacher' by Respondent No.5 herein on 10.03.2014. Since, the

petitioner completed his probation period of three years, the Education Officer by an order dated 12.06.2017 approved the services of the petitioner on unaided basis. The record also shows that on account of retirement of one of the teacher who was working in aided division, the Respondent No.5 transferred the petitioner from unaided division to aided division by an order dated 29.12.2018.

4. The record also further reveals that the Respondent No.5 accordingly submitted a proposal for grant of approval to the transfer of the petitioner from Un-aided division to Aided division. The Respondent No.3/Education Officer by impugned order dated 17.02.2020 granted approval to the transfer of the petitioner, however, instead of granting approval as an Assistant Teacher, the Respondent No.3/Education Officer approved the services of the petitioner as Shikshan Sevak on Aided division. Learned counsel for the petitioner has invited our attention to various orders passed by this Court to contend that, this Court has taken a consistent view that the teacher working on unaided post and have completed three years of service as 'Assistant Teacher', assumes the status of permanent teacher. Merely because the said teacher is transferred from Unaided division to Aided division does not mean that, the same is to be treated as a fresh appointment. The past services rendered by the petitioner should be considered while granting approval to his transfer from Un-aided division to Aided division as Assistant Teacher and not as Shikshan Sevak.

5. We have perused the orders passed by this Court in following

matters :

- i) **Nagnath Harishchandra Chavan vs. The State of Maharashtra and Others in Writ Petition No.13676 of 2018.**
- ii) **Dilip Venkatrao Boienar vs. The State of Maharashtra and Others in Writ Petition NO.7841 of 2019.**
- iii) **Arvind Venkatrao Fulse and Another vs. State of Maharashtra and Others in Writ Petition No.6510 of 2020.**
- iv) **Sandhya Balkrushna Teli & Ors. Vs. The State of Maharashtra & Ors. in Writ Petition (Stamp) No.93919 of 2020.**

6. Therefore, after taking into consideration the orders passed by this Court in cases referred supra, we are of the view that the Writ Petition deserves to be allowed. Hence, we pass the following order :

ORDER

- i) The Writ Petition is allowed in terms of prayer clause 'B' which reads thus :

“B) By a writ of mandamus or any other appropriate writ or direction in the like nature, the Respondent No. 3 - Education Officer (Primary) may please be directed to modify the approval order dated 17.02.2020 issued by the Respondent No. 3 Education Officer (Primary) and grant approval to the transfer of the petitioner as Assistant Teacher w.e.f. 1.1.2019 in regular pay scale on 100% aided basis in the Respondent No. 5 School instead of as Shikshan Sevak and accordingly release the arrears of salary of the petitioner from the date of transfer within a period of six weeks.”

ii) Rule is thus made absolute in above terms.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)

vsj..