

versus

Mr. Lengare Y.B. a/w Mr. Aditya K. Gaikwad, Advocate for the Petitioner.

Mr. P.P. Kakade, Add. G.P. a/w Ms. Nisha Mehra, AGP for the Respondent – State.

**CORAM : M. S. KARNIK &
&
ASHWIN D. BHOBE, JJ.**

DATE : 21st MARCH, 2025

P.C. :-

1. The Petitioner was appointed as a Junior Clerk in the unaided division with effect from 31st July, 2017. Approval was granted to the Petitioner's appointment by the Education Officer dated 26th November, 2021. The Petitioner was transferred from the unaided Division to the aided division on vacant post on 21st December, 2021. Mr. Kakade, learned Additional G.P. for the Respondents relied upon Rule 41-A of the Maharashtra Employees

of Private Schools (Conditions of Service) Rules, 1981. The Petitioner have completed 5 years in the private school in the unaided division on 31st July, 2022. Learned Counsel for the Petitioner on instructions submits that in any case, he won't seek any benefits of any arrears till 31st July, 2022. There is a vacant post. The Petitioner's transfer from unaided to aided was in the vacant post. The statement that the Petitioner will not claim any arrears for the period upto 31st July, 2022, is accepted.

2. The learned AGP opposed the Petition, further contending that the matter be remitted to the Deputy Director of education for deciding the question of approval. This Court in *Shri. Mahesh Bajirao Hake Vs. The State of Maharashtra & Ors.* in Writ Petition No.8734 of 2022 vide order dated 9th December, 2022 has held that the Government Resolution (G.R.) dated 6th April, 2021 in 41 B has not yet been implemented and as such, the school is governed by Rule 41A of the MEPS Rules, 1981 which is already interpreted by this Court in the matter of *Rajaram S. Mandale & Anr. V/s. The State of Maharashtra & Anr.* This Court in *Rajaram S. Mandale* (supra) has held that there is no embargo as regards transfer of non-teaching staff from the unaided division to the aided division. The

Petitioner has worked as a Junior Clerk in the unaided division for more than four years. As the Petitioner has already made a categorical statement on instructions that he won't claim any arrears upto 31st July, 2022, we have no difficulty in allowing the Petition. The impugned order rejecting the proposal for granting approval to the Petitioner as a Junior Clerk is set aside. The Respondent No.3 is directed to grant approval to the post of the Petitioner as a Junior Clerk with effect from 1st August, 2022. The order of approval be issued within a period of four weeks from today. The Respondent No.3 may then, forward the approval so granted to the Deputy Director of Education for grant of Shalarth I.D. The Shalarth I.D. be granted within a period of four weeks thereafter.

3. This Petition is **disposed of**. No costs.

(ASHWIN D. BHOBE, J.)

(M. S. KARNIK, J.)