

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9495 OF 2023

1. Shri. Hanumant Hirachand Saklave
2. Shri. Sanjay Dinkar Tembhe
3. Shri. Vilas Gaurihar Divate
4. Shri. Bhimrao Ramchandra Shinde
5. Smt. Rohini Popatrao Ovhal
6. Shri. Vishvas Bapu Ghanawat
7. Smt. Ashwini Subhash Borate
8. Shri. Vilas Hanmant Jadhav
9. Smt. Hemlata Gajanan Navale
10. Shri. Kantilal Jagannath Adsul
11. Shri. Rajendra Dashrath Pisal
12. Shri. Pandurang Kisanrao Shelke
13. Smt. Swati Ramchandra Keskar
14. Smt. Anita Laxman Patole
15. Smt. Jyoti Deepak Jadhav
16. Smt. Vaishali Subhas Nale
17. Smt. Pramila Rajesh Almeida
18. Smt. Gaytri Ashok Joshi
19. Smt. Rani Pravin Poman
20. Smt. Megha Ghanshyam Pavale
21. Smt. Smita Sanjay Godambe
22. Smt. Manisha Waghole
23. Smt. Kavita Sanjay Tembhe
24. Smt. Smita Bhaskar Kamble

25. Smt. Vidya Vinayak Chaudhari
26. Smt.Ashwini Naresh Yashwantrao
27. Smt.Jyoti Laxman Thakare
28. Shri.Kadav Jagdishchandra Kashinath
29. Smt. Rajshree Rajendra Patil
30. Smt.Ranjita Bhimrao Khadse
31. Smt.Jayshree Krishna Ghige
32. Smt.Neha Nitin Varkute
33. Shri Sunil Vitthal Patole
34. Smt.Sushama Chintan Shelar
35. Shri Prakash Gangaram Edage
36. Shri Deepak Sampatrao Jadhav
37. Vilas Bhagwan Masal
38. Shri Ramesh Baburao Gaikwad
39. Shri. Prashant Shankar Gandhale
40. Shri. Laxman Baban Jadhav
41. Shri. Sudhir Shankar Bhosale
42. Shri. Arvind Raghunath Chorat
43. Shri. Balasaheb Ranjan Bobade
44. Shri.Shrinivas Vamanrao Dhainje
45. Vandana Abhaykumar Shinde
46. Ganesh Dnyaneshwar Jagtap
47. Digambar Dattatray Hole
48. Shri.Shaikhlal Mubarak Pinjari
49. Shri.Dilip Bapu Jadhav
50. Shri Rajendra Khandu Yelhe
51. Shri.Rajendra Tatyaba Gophane
52. Shri. Vishal Dhanaji Jadhav

53. Shri.Gajanan Vishwnath Nale
54. Shri. Dattatray Dinkar Tarte
55. Shri.Sachin Vishwas Thombare
56. Smt. Sushma Nitin Kadam
57. Shri. Uttam Hariba Choramle
58. Shri.Sachin Mahadev Gaikwad
59. Shri.Ganesh Balasaheb Pakhale
60. Shri.Dattatray Nansaheb Nale
61. Shri Dattatrya Dnyanadev Jadhav
62. Shri.Ankush Shankar Pawar
63. Shri.Shankar Vyankat Gaikwad
64. Shri Shekhar Balkrishna Bhalerao
65. Shri Laxman Malhari Patole
66. Smt.Rupali Bharat Chavan
67. Shri Aatmaram Genba Liman
68. Shri Dattatray Maruti Dhekale
69. Shri Rahul Dattatray Londhe
70. Shri Sagar Natha Khairmode
71. Shri Devidas Ramchandra Nale
72. Smt. Asha Prashant Mapari
73. Smt. Sushma Hares Thorat
74. Shri Dattatrya Maruti Karande
75. Smt. Shaileja Umeshrao Ranavare
76. Smt.Puja Aanant Prabhune
77. Shri. Imtiyaj Mubarak Tamboli
78. Shri.Ananda Balu Kale
79. Shri. Hanmant Ramchandra Masgude
80. Shri. Vishal Dadaso Khatal

81. Smt.Kirti Samadhan Jadhav
82. Shri.Pravin Dipak Poman
83. Smt.Sangita Parera
84. Smt.Sonali Nitin Mhaiskar
85. Smt.Manasi Sanjay Mahakal
86. Smt. Vidya Santosh Babar
87. Smt.Ashwini Arun Kedari
88. Shri. Vijay Shivdas Bilsore
89. Shri. Nandlal Hiranman Navsare
90. Shri Santosh Ziparu Patil
91. Smt.Prajakta Santosh Chothe
92. Smt.Swati Nickson Carvalho
93. Smt. Sangeeta Mathew Rodrigues
94. Smt.Sheetal Amar Pimple
95. Smt.Manisha Maruti Surose
96. Smt. Reshma Nitin Walunj
97. Shri Shamshad Masud Shaikh
98. Shri.Niwas Shantaram Thakre
99. Smt.Pushpa Bhagwat Patil
100. Shri. Deepak Dattatraya Patole
101. Shri. Avinash Viththal Sonawane
102. Shri. Vijay Namdeo Gore
103. Shri Sunil Goma Patil

All aged Adult, Occ. service,
working as teachers in the primary
schools of the respective
Zilla Parishads, as per the

details mentioned against their
names in the Chart annexed
at Exhibit-A to this Writ Petition.

...Petitioners

versus

1. The State of Maharashtra,
Through the Secretary,
Rural Development Department,
Mantralaya, Mumbai - 400 032.
2. The Principal Secretary,
School Education and
Sports Department,
Government of Maharashtra,
Mantralaya, Mumbai - 400 032.
3. The Director of Education [Primary],
Maharashtra State, Pune
4. The Commissioner [Education],
Maharashtra State, Pune
5. Satara Zilla Parishad, Satara,
Through its Chief Executive
Officer
6. Thane Zilla Parishad, Thane,
Through its Chief Executive Officer

7. Pune Zilla Parishad, Pune,
through its Chief Executive Officer
8. Palghar Zilla Parishad, Palghar
through its chief Executive Officer ...Respondents

Mr. Naredra V. Bandiwadekar (Senior Advocate) a/w Mr. Vinayak Kumbhar a/w Mr. Rajendra Khaire, a/w Mr. Aniket S. Phapale i/b Ms. Ashwini Bandiwadekar for the Petitioner.

Mr. Shrishail Sakhare for the Respondent No.6.

Mr. P. P. Kakade Addl. G. P a/w Mr. V. G. Badgujar AGP for the State, Respondent No. 1 to 4.

Mrs. Jyotsna Arjun, Senior Officer, R. D.D. Department, Mantralaya, Mumbai, present in the Court.

**CORAM : RAVINDRA V. GHUGE, &
ASHWIN D. BHOBE, JJ.**

DATE : 1ST APRIL, 2025

JUDGMENT (Per Ravindra V Ghuge, J)

1. Leave to carry out the formal amendment in view of the recent communication dated 28th February, 2025 issued by the Desk Officer, Rural Development Department, addressed to the Chief Executive Officer, Zilla Parishad Thane. The proposed amendment is allowed and to be carried out forthwith.

2. **Rule.** Rule made returnable forthwith and heard finally by the consent of the parties.

3. After an extensive hearing in this matter, we noticed that the Government Resolution with regard to the Annual General Intra-district Transfer Policy dated 18th June, 2024 is in place. The confusion that is created is on account of the communication dated 28th February 2025 addressed by Ms. Jyotsna Arjun, Desk Officer Maharashtra State, Department of Rural Development, addressed to the Chief Executive Officer Zilla Parishad Thane.

4. For the purpose of clarity, it needs mention that the Petitioners were transferred to the difficult areas from 2011 onwards. The exact dates of their posting in difficult areas are set out in an extensive chart from page numbers 52 to 55. They have not only completed the requisite three years in difficult areas, but many of them have put in 14 to 15 years in difficult areas. Some of them are ladies and by the Government Resolution dated 15th February, 2018 women employees/teachers are not to be deployed in difficult areas and those male employees who have completed 53 years, are also not to be deployed in the difficult areas.

5. The recently issued Government Resolution dated 18th June, 2024 is brought to our notice, relevant clause being no. 1.7(1.7.1 and 1.7.2), which reads as under:-

"१.७ बदली अधिकार प्राप्त शिक्षक :-

१.७.१ बदली अधिकार प्राप्त शिक्षक म्हणजे ज्या शिक्षकांची अवघड क्षेत्रात बदलीसाठी निश्चित धरावयाची सेवा ३ वर्षे किंवा त्यापेक्षा जास्त झाली असेल असे शिक्षक.

१.७.२ अवघड क्षेत्रातील शाळांची सुधारित यादी प्रसिध्द केल्यानंतर सर्वसाधारण क्षेत्र म्हणून घोषित झालेल्या मात्र पूर्वी अवघड क्षेत्रामध्ये मोडणाऱ्या शाळांमधील शिक्षकांची सलग सेवा ३ वर्षे झालेली असेल तर, त्यांना पुढील बदली वर्षामध्ये बदली अधिकार प्राप्त करण्यासाठी ग्राह्य धरण्यात येईल."

6. Above reproduced clause clearly indicates that a teacher (not a lady teacher any more) who has worked for three years in a difficult area, would acquire the right to be transferred out of the difficult area. Cause 1.7.2 makes it even more clear that if the difficult area in which a teacher has been working and has completed the period entitling him a right to be transferred, is subsequently converted into a plain area due to developments, the time spent by the teacher in the said difficult area before its conversion, would also give advantage to the candidate as he had worked in the difficult area. He would get the right to be transferred out of that area.

7. It is in the above backdrop that the Desk Officer addressed a letter dated 28th February, 2025 to the Chief Executive Officer of the Thane Zilla Parishad which has led to the confusion

due to which this Petition has been filed. Clause (1) of the said letter which has led to the confusion reads as under:

"१) मुद्दा क्र. १ व २:- अवघड क्षेत्रातील शाळा सर्वसाधारण क्षेत्रामध्ये समाविष्ट झाल्यास, त्यापूर्वी एखाद्या शिक्षकाने अवघड क्षेत्रातील शाळेमध्ये केलेली सेवा ही अवघड क्षेत्रातील सेवा समजण्यात यावी व सदर अवघड क्षेत्रातील कालावधी खंडीत सेवा धरून या शिक्षकांच्या सर्वसाधारण क्षेत्रातील बदलीबाबत कार्यवाही करावी."

8. A weird situation is before us. The Desk Officer has unnecessarily used the words "सदर अवघड क्षेत्रातील कालावधी खंडीत सेवा धरून या शिक्षकांच्या सर्वसाधारण क्षेत्रातील बदलीबाबत कार्यवाही करावी". There is no question of treating a person's tenure of deployment in a difficult area, to be a break in service after the area gets converted into a plain area.

9. The learned AGP, on instructions from the Desk Officer present in the Court, has made an attempt to interpret the word "खंडीत सेवा" to mean that it does not amount to a break in service. We are surprised, to say the least. An unnecessary effort is made to explain the meaning of the word "खंडीत सेवा" by informing us that it

does not mean that there would be any break in service. These are words which were not required to be mentioned in the letter dated 28th February, 2025. Clause 1.7.1 and 1.7.2 are unambiguous and clear sentences which do not require any clarification by the Desk Officer.

10. In view of the above, we are issuing the following directions:-

- a) The communication dated 28th February, 2025 addressed to the Chief Executive Officer Zilla Parishad Thane, shall be overlooked and ignored.
- b) Clause 1.7.1 and 1.7.2 of the Government Resolution dated 18th June, 2024 shall be read in the manner in which they have been drafted since they are unambiguous and clear sentences.
- c) The Government Resolution dated 15th February, 2018 shall be followed in ensuring that lady teachers and also male teachers who are 53 plus, would not be deployed in difficult areas.
- d) The period spent by these Petitioners in the difficult areas, notwithstanding that the said areas have later on being declared to be plain/simple areas, shall stand to gain

advantage of the time spent in the difficult areas for all benefits as may be flowing through the policies of the government or the applicable Government Resolutions and in this backdrop, their claims for being transferred out of the said difficult areas shall be entertained by the respective Zilla Parishads.

e) Needless to state, they would also be involved in the counseling process as per the policy in vogue.

11. The learned AGP submits on instructions from the Desk Officer present in the Court that in view of the changed policy, each candidate has to make an online application for intra-district transfers and all such candidates, after expressing their 30 options, are not required to undergo any counseling process. They would follow the schedule in the cases of each of these Petitioners accordingly.

12. **The Writ Petition is partly allowed in the above terms** and Rule is made partly absolute, accordingly.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)