

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11730 OF 2025

Mrs. Sharada Popat Rode

(Ms. Sharad Dadu Bhalekar) & Anr.

... Petitioners

Versus

The State of Maharashtra & Ors.

... Respondents

*Mr. Sagar A. Mane a/w. Mr. Rushikesh D. Jagdale for the Petitioners.
Mrs. S.N. Deshmukh, A.G.P. for the Respondents-State.*

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 24th December 2025.

ORAL JUDGMENT (PER : M.S. KARNIK, J.)

1. Heard learned counsel for the Petitioners.
2. Learned A.G.P. requested for some time to take instructions and respond. However, we are not inclined to grant time, as in our opinion the Government Resolution (G.R.), which forms the basis of rejection of the Petitioner's proposal is prospective in operation and could not have been applied retrospectively to the Petitioner's case.

3. The challenge in this Petition is to the Order dated 9th September 2025 issued by the Respondent No.3 refusing to grant approval to appointment of the Petitioner No.1, as Assistant Teacher from unaided school to the aided school by the Petitioner No.2-Management.

4. The Petitioner No.1 was appointed as Assistant Teacher in unaided D.Ed. College of Petitioner No.2 on probation for two years on 10th December 2007. The Respondent No.3-Education Officer granted approval to the Petitioner No.1 on probation basis by an Order dated 9th May 2008. After completion of probation period, the Respondent No.2 granted approval for continuity of service to the Petitioner No.1 by an Order dated 19th June 2010. The Petitioner No.2 passed a resolution dated 3rd June 2019 for transferring the Petitioner No.1 from unaided school to its aided school, namely, New English School, Belawade, Tal. Patan, District Satara with effect from 17th June 2019. Accordingly, transfer order dated 16th June 2019 was issued to the Petitioner No.1 pursuant to which she was relieved from unaided school and she joined aided school on 17th June 2019.

5. The Headmaster of aided school submitted the proposal to the Respondent No.3 to grant approval to the above transfer. The Respondent No.3 issued Order dated 16th June 2023, rejecting the proposal. Hence, the Petitioners challenged the said Order before this

Court vide Writ Petition No. 6909 of 2024.

6. The Division Bench of this Court by Order dated 21st March 2025 disposed of Writ Petition No. 6909 of 2024 by calling upon the Respondent No.3 to treat the impugned Order as Show-Cause-Notice and decide the proposal within four weeks. On 23rd April 2025 the Headmaster re-submitted the proposal to the Respondent No.3 by removing the deficiencies mentioned in Order dated 16th June 2023. The Respondent No.3 rejected the proposal by referring to the Government Resolution (G.R.) dated 1st April 2021 issued by the Respondent No.1.

7. Learned A.G.P submitted that the proposal has been rightly rejected by the Respondent No.3, as the Petitioner No.1's proposal is not compliant with the conditions laid down in the G.R. dated 1st April 2021 and therefore the Petitioners case will have to be considered in terms of the said G.R., which was in force as on the date of submission of the proposal.

8. We have heard learned counsel for the parties.

9. The Petitioner No.1 was initially appointed as Assistant Teacher in unaided school by Order dated 10th December 2007. After working in the unaided school for almost 12 years, which appointment was approved, the Petitioner No.1 was transferred to fully aided school with effect from 17th June 2019, but the said transfer was not approved by the Respondent

No.3 vide the impugned Order dated 9th September 2025. Reliance placed by the Respondent No.3 on Clause 4 of the G.R. dated 1st April 2021 for refusing approval to transfer is unsustainable. The transfer has been made with effect from 17th June 2019, much prior to the G.R. issued on 1st April 2021. There is nothing in the said G.R. to indicate that the said G.R. can be made retrospectively applicable. Rule 41A[1][d] of the The Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (MEPS Rules), requires transfer to be made on equal or same cadre and the transfer cannot be made from D.Ed. College to secondary school. This provision was introduced by way of amendment to the MEPS Rules with effect from 8th June 2020. However, the appointment of the Petitioner No.1 was made with effect from 17th June 2019. Rule 41 as it stood does not prohibit such transfer from D.Ed. College to secondary school. The amendment made with effect from 8th June 2020 cannot be made applicable retrospectively, in respect of the transfer of the Petitioner effected on 17th June 2019.

10. Consequently, the Petition succeeds. The impugned Order dated 9th September 2025 is quashed and set-aside.

11. The Petition is allowed in terms of prayer clauses (b) & (c).

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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