



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 7287 OF 2024

(Sangita Rajendra Hole & Ors. **Vs.** State of Maharashtra & Ors.)

WITH

WRIT PETITION NO. 2289 OF 2025

(Ku. Jyoti Mahadevrao Bhatkar & Ors. **Vs.** State of Maharashtra & Ors.)

WITH

WRIT PETITION NO. 7486 OF 2024

(Uttam Ramdas Chunkikar & Anr. **Vs.** State of Maharashtra & Ors.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. F.T. Mirza, Senior Advocate a/b. Mr. S.M. Khan, Advocate for the Petitioners in W.P. No. 7287/2024,
Mr. P.A. Kadu, Advocate for the Petitioners in WP No. 2289/2025.
Mr. S.M. Vaishnav, Advocate for the Petitioners in WP No. 7486/2024.
Mr. A.S. Fulzele, Addl.G.P., Ms. T.H. Khan & Mr. S.V. Narale, AGPs for the Respondents/State,
Mr. S.S. Shinde, Advocate for Respondent Nos.2 and 3 in WP Nos.7287/2024 & 7486/2024.

**CORAM: AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.**

DATED : 29th APRIL, 2025

1. Heard.

2. The Petition questions the order dated 31.12.2024 (Page 153) and similar orders till Page No.206, whereby the transfer of the Petitioners, has been effected, from the place, they were working, to some other place in view of the G.R. dated 18.06.2024, which has to take effect from 30.04.2025. The grievance is that the Petitioners, had been transferred to

the places where they are presently working, within a period of one to two years only and, therefore, were not eligible to be transferred.

3. Mr. Mirza, learned Senior Counsel for the Petitioners, invites our attention to the policy of transfer, as indicated in Clause 1.10 (Page 24) of the G.R. dated 07.04.2021 (Page 21) in terms of which, Teachers working in plain areas for ten years and for five years in the present place of posting, were held eligible for being considered for transfer. The proviso thereto, however, permitted transfer, to vacant seats in a difficult area of a person who had completed employment in plain area for a period of ten years, without the requirement of the person being posted in the present place of posting for a period of five years being insisted upon. This G.R. dated 07-04-2021 was questioned before this Court in ***Pravin Pandurang Hood Vs. State Writ Petition No. 5258/2023*** and connected petitions, all of which came to be disposed of by the order dated 04.12.2023 (Page 46) in view of the statement made by the learned Assistant Government Pleader in Para 2 thereof, which is as under :

“2. The learned counsel for the respondents/Zilla Parishad submit that the vacancies of the Headmasters/Assistant Teachers which shall be existing with it that is Zilla Parishad Amravati shall be identified and notified on the portal maintained by the State Government for enabling the consideration of the claim of the candidates like the petitioners for transferring their services from difficult tribal area to plain area before the next academic session in accordance with Government Resolution dated 07/04/2021.”

4. The State, however, instead of acting in terms of para 2 of the order dated 04.12.2023, came out with another G.R. dated 18.06.2024 (Page 47) in terms of which, the expressions, “Difficult area” (clause 1.1) ; “Plain Area” (clause 1.2) were defined. Apart from which, by virtue of clause 1.8 of the said G.R. as many as 20 categories were created from clause 1.8.1 to 1.8.20 under the title Special Category Teacher Part-1 (page 48). Another category was created under the heading Special Category Teacher Part-2 which was then sub-divided into 7 different categories from clause 1.9.1 to 1.9.7.

5. Mr. Mirza, learned Senior Counsel for the Petitioners, challenging the Constitutional validity of the G.R. dated 18.06.2024 (page 47), as is indicated by prayer clause (a) of the Petition, submits that there is no rationale behind the categorization and it is merely for the sake of asking, on the basis of representations made by various associations of Teachers. He further submits, that since the transfer is an incidence of service, in fact there should be no categorization whatsoever, of any nature, as by creating categories and sub categories thereunder, only discrimination is being perpetuated, which ultimately leads to litigation and adversely effects the education to be imparted to the students.

6. He further invites our attention to the introduction to the G.R. dated 18.06.2024 (page 47), to contend, that the reasons given therein, cannot be said to be justification for creating categories and categories within categories. He therefore submits, that since there is an

absence of any rationale the categorization created creates a discrimination between persons who are similarly situated in terms of employment, number of working hours, nature of duties performed, service conditions and the emoluments which are to be received by such employees, for performing the duty, which according to him, is not permissible in law, and therefore, tested on the touchstone of Article 14 of the Constitution of India, the categorization created in the G.R. dated 18.06.2024 cannot be sustained, and therefore, the entire G.R. needs to be quashed and set aside.

7. Mr. Fulzele, learned Addl.GP, while supporting the impugned G.R. dated 18.06.2024 (page 47) submits, that the introduction to the same, speaks about the rationale for its creation and the categorization as made thereunder. He submits, that though the Teachers are performing the same job, however, considering various factors and representations, received from the associations of the Teachers, the necessity for creating categorization has been felt which is clearly justified. He further submits, that the study group was constituted and its report has also been taken into consideration for the purpose of categorization. He, however, seeks couple of days time for placing on record the report of the study group.

8. Mr. Shinde, learned Counsel for the Zilla Parishad, supports the impugned G.R. and submits, that the categorization is fully justified considering that all cannot be treated as equal. He further submits, that list of transfers to be effected is to be implemented from tomorrow, and

therefore, submits that the Petition needs to be dismissed.

9. Since there is a challenge to the validity of the G.R. dated 18.06.2024 (page 47) and there is a request from Mr. Fulzele, learned Addl.GP, for time to place the report of the study group on record, which according to him, would have bearing upon the matter, list the matter on 05.05.2025, by which time, the report of the study group be placed on record. It is made clear, that in case it is not so placed, the Petition shall be decided in its absence.

10. The interim order dated 16.01.2025 is continued till 05.05.2025.

11. List the matters on **05.05.2025** for final disposal.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)