



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

WRIT PETITION NO.4961 OF 2026

District: Beed

Deepak Subhashlal Gugale,
Age- 40 Yrs, Occupation- Service,
R/o. Kada, Tq. Ashti, Dist. Beed.

..Petitioner

VERSUS

1. The State of Maharashtra,
Through its- Secretary,
School Education & Sport Department,
Mantralaya, Mumbai-32
2. Education of Secondary,
Zilla Parishad, Beed.
3. Shri. Amolak Jain Vidya Prasarak Mandal,
Kada, Tq. Ashti, Dist. Beed.
Through its- Secretary
4. The Head Master,
Motilal Kothari Vidyalaya,
At Post: Kada, Tq. Ashti, Dist. Beed

..Respondents

Mr.Chandrakant V. Thombre, Advocate for petitioner
Mr.V.M.Kagne, AGP for respondent nos.1 and 2

**CORAM : SMT.VIBHA KANKANWADI &
AJIT B. KADETHANKAR, JJ.
DATE : May 05, 2026**

ORDER (Per Ajit B. Kadethankar, J.):-

Petitioner is serving on an aided post of Assistant Teacher
at Respondent no.4 School run and administered by the Respondent

no.3 School Management. Respondent no. 3 is a Minority Education Institution having been duly certified by the State Government. One Mr.Mutkule, who was serving at Respondent no.4 school on unaided post of an Assistant Teacher, came to be transferred on aided post of Assistant Teacher in the same school by the Respondent no.3- School Management.

2. Consequent to the transfer of Mr.Mutkule from a non-aided post of Assistant Teacher to an aided post of Assistant Teacher, the respondent no.3 - Management appointed the petitioner as an Assistant Teacher on the said un-aided post for a period of two years i.e. w.e.f. 17.06.2019 to 16.06.2021 in the Respondent no.4 school. The respondent no.2 - Education Officer granted approval to the petitioner's appointment on unaided post. The school management then continued the Petitioner, and submitted a proposal for further approval. The Education Officer pleased to grant approval to his continuation in view of the Management resolution dated 11.10.2021.

3. Subsequently on 31.10.2020, an aided post of Assistant Teacher fell vacant in the respondent no.4 school, on account of superannuation of one Mr.B.T.Jagtap. On 13-06-2023, the respondent - Management resolved to transfer the petitioner from the un-aided post

of Assistant Teacher to the aided post of Assistant Teacher which had fallen vacant on account of Mr.Jagtap's superannuation. Accordingly, vide order dated 14.06.2023, the petitioner came to be transferred on aided post of Assistant Teacher in respondent no.4 - school.

4. Consequent to Petitioner's transfer on aided post of Assistant Teacher, the Headmaster of respondent no.4 - school submitted a proposal to the respondent no.2 - Education Officer seeking approval to the transfer of the petitioner from unaided to aided post of Assistant Teacher.

5. Without even giving any opportunity of hearing to the petitioner or the Headmaster of the school or the school management, respondent no.2 vide communication dated 24.11.2025, rejected the said proposal for approval, submitted by respondent no.4. Hence, the petitioner has filed the present petition before this court.

6. Mr. Chandrakant Thombre, learned counsel for the petitioner submits that the respondent no.2 has rejected the proposal giving specific reference to the Government Circular dated 01.04.2021. He would submit that even reference is also given to the Government Circular dated 03.10.2024, whereby it is provided that the

proposal should be accompanied with the properly filled in schedules annexed to the Circular dated 03.10.2024. Mr. Thombre further submits that had the petitioner or the school management been given an opportunity, the deficiencies could have been cured at the time itself. He further submits that in fact, in view of the amendment to Sub-Rule (1)(h) of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, the respondent no.2 was not even competent to pass the impugned order. He would submit that the amendment has come into force on 13.11.2025, while the impugned order is passed by respondent no.2 on 24.11.2025, devoid of any authority to reject the proposal. Mr.Thombre also submits that even otherwise the concerned referred provisions in the Government Circular dated 01.04.2021 shall not come in the way of the petitioner.

7. For now, we refrain ourselves from commenting upon the merits of petitioner's proposal.

8. Learned Assistant Government Pleader has no reason to deny that on 24.11.2025, the respondent no.2 was neither competent nor authorized to pass the impugned order. He fairly agrees that the Commissioner (Education), State of Maharashtra, Pune, is the competent authority to whom respondent no.2 ought to have forwarded the proposal so received from the school Headmaster.

9. In view of the above, we find it appropriate to dispose of this Writ Petition at admission stage, and remit the matter back to respondent no.2 in order to forward the same to the appropriate authority i.e. Commissioner (Education), M.S., Pune.

10. For the reasons recorded above, we are of the view that there is no necessity to issue formal notice to respondent nos.3 and 4 for the reason that the proposal is submitted by the school management itself. Hence, we pass the following order:-

(i) The Writ Petition is partly allowed

(ii) The matter is remitted back to respondent no.2, who shall forward the proposal submitted by the School Management seeking approval to petitioner's transfer from unaided post to aided post of Assistant Teacher, within a period of four weeks from today to the Commissioner (Education), State of Maharashtra, Pune.

(iii) Upon receipt of the proposal, the Commissioner (Education), Maharashtra State, Pune, shall take appropriate decision on its own merit, within a period of twelve weeks thereafter.

(iv) Before passing any order on merits if the authority, i.e. Commissioner (Education) notices any deficiencies in the proposal, a

notice/opportunity of hearing shall be given to the school Management. The School Management shall cure the deficiencies within a period of Two weeks from the receipt of notice, if given by the authority i.e. the Commissioner (Education), M.S., Pune. The final decision shall be taken accordingly as ordered above.

[AJIT B. KADETHANKAR, J.]

[SMT.VIBHA KANKANWADI, J.]

KBP

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