HARISH VITHAL CHAUDHARI
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7511 OF 2025

Vikas Shantaram Chande ...Petitioner

Versus

The State Of Maharashtra Through Secretary And Others ...Respondents

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Mr. Prashant Bhavake for the Petitioner.
Mr. Vikas M. Mali, AGP for the Respondent-State.

Coram : Sharmila U. Deshmukh & Neeraj P. Dhote, JJ.

Date : October 01, 2026.

P. C. :

1. By the present petition, the petitioner challenges the order dated 29th January, 2018 passed by the Education Officer, seeking modification of the said order insofar as it grants approval to the transfer of the petitioner to the aided post as a Shikshan Sevak instead of an Assistant Teacher in the regular pay scale.

2. Briefly stated, the facts of the case are that the petitioner came to be appointed on 30th November, 2013 to the unaided post of Assistant Teacher in respondent no. 7's school. Respondent no. 5 approved the appointment of the petitioner on 17th January, 2014. A resolution was subsequently passed on 16th July, 2016 by respondent

no. 6 resolving to transfer the petitioner to an aided vacant post, and a proposal was submitted seeking approval for the said transfer. On 29th January, 2018, respondent no. 5, Education Officer, approved the appointment of the petitioner as a Shikshan Sevak with effect from 16th July, 2016 instead of as a full-time Assistant Teacher.

3. Mr. Bhavake, learned counsel for the Petitioner would submit that the issue has been settled by various decisions of this Court, and in particular, by the decision of the Hon'ble Division Bench of this Court in the case of ***Sandip Dilip Thorat vs State of Maharashtra [in Writ Petition No. 168 of 2021 decided on 22nd July, 2021]*** and connected Petitions. He submits that the Hon'ble Division Bench considered the clauses of the Government Circular dated 28th June, 2016 and has held that Sub-Clause 5(A) of Clause 3 of Government Circular can be invoked only where the Assistant Teacher has not completed three years period after his appointment in the school on unaided basis and that he has not received approval to his service as an Assistant Teacher on regular basis. He would point out that in the present case, the Petitioner has completed five years of service short of five days, and therefore, approval was required to be granted for the post of Assistant Teacher in regular pay scale.

4. The learned AGP would support the impugned order and submits that as the transfer was on the aided post, the petitioner was rightly

appointed as a Shikshan Sevak by relying upon the GR dated 28th June, 2016.

5. We have considered the submissions and perused the record.

6. The decision in the case of ***Sandip Dilip Thorat*** (supra) covers the present issue. In that case, the Hon'ble Division Bench had the occasion to consider various clauses of the Government Circular dated 28th June, 2016. It noted the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, as well as the judicial pronouncements on the subject. It also noted the decision in the case of ***Sagar Harichandra Bhande vs State of Maharashtra; [WP(ST) No. 93916 of 2020 decided on 12th March, 2021]***, where it was held that when an Assistant Teacher has already completed three years period, there is no justifiable reason to ask the Assistant Teacher to work again as Shikshan Sevak on consolidated pay for three years. It held in paragraph 19 as under:

> *"19. It is clear from these Petitions that the respective Petitioners had rendered service on unaided basis as Assistant Teacher in the respective Secondary Schools and were transferred to the aided division of the respective Secondary Schools on the basic sanctioned post which had become vacant on the said aided division and the said post was already on 100% grant-in-aid basis. It has been clearly held by the Division Bench of this Court in the case of Sagar S/O. Harichandra Bhande & Anr. (supra), where the Assistant Teacher had already completed three years period, there is no justifiable reason to ask the*

Assistant Teacher to work again as Shikshan Sevak on consolidated pay for three years. Sub-Clause 5(A) of Clause 3 of the said Government Circular can be invoked only where the Assistant teacher has not completed three years period after his appointment in the school on unaided basis and that he has not received approval to his services as an Assistant Teacher on regular basis."

7. In the present case, the petitioner was appointed to the unaided post as an Assistant Teacher on 30th November, 2013 and is entitled to the benefit of the services rendered on the said post. The issue is well settled by the judicial decisions of this Court and upon completion of the probation period of three years, she is entitled to be appointed as an Assistant Teacher. The impugned order appoints the petitioner as a Shikshan Sevak with effect from 16th July 2016 without considering the past services rendered by her and to that extent, the impugned order dated 29th January, 2018 is hereby quashed and set aside.

8. The Education Officer is directed to grant approval to the transfer of the petitioner from the unaided post to the aided post in the regular pay scale as an Assistant Teacher within a period of two weeks from today. As the period of three years was completed on 30th November 2016, the arrears of salary to be released within a period of four weeks thereafter, with effect from 30th November, 2016.

9. The petition is allowed in the aforesaid terms.

[Neeraj P. Dhote, J.] **[Sharmila U. Deshmukh, J.]**