

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3056 OF 2023

KHAN YASMEEN LIYAQAT ALI
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY AND
OTHERS

. . .
Advocate for Petitioner : Mr. Pralhad D. Bachate
AGP for Respondent Nos.1 to 3 : Mr. V. M. Kagne
Advocate for Respondent No.4 : Mr. U. B. Bondar
Advocate for Respondent No.5 : Mr. A. D. Khot
. . .

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.**

DATED : 20th MARCH, 2023

PER COURT :

1. The Petitioner is aggrieved that her proposal for transferring her service from partly grant in aid to fully grant in aid post as an Assistant Teacher, has been rejected since Rule 41-A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short, “MEPS Rules, 1981”), has been stayed by the Government Circular dated 01.12.2022.
2. The above stated circular has been stayed by an order passed at the Nagpur Bench dated 21.12.2022 in Writ Petition No. 8215 of 2022.
3. In Writ Petition Nos.658 of 2023, filed by *Dattatray Shivajirao*

Solanke Vs. The State of Maharashtra and others, this Court has passed an order on 23.01.2023 and has recorded in paragraph Nos.3 and 4 as under :-

“3. In the light of the submissions of the learned advocates for the respective sides and by considering the circular dated 17th December, 2021 issued by the School Education and Sports Department and the judgment dated 30th November, 2018 delivered by this Court in **Writ Petition No.6952 of 2018 (Vishnu S/o Kanu Surashe Vs. The State of Maharashtra and others)** and the judgment dated 5th November, 2019 delivered by this Court at the Nagpur Bench in **Writ Petition No.7030 of 2019 (Akola Education Society and others Vs. State of Maharashtra and others)**, we find that the impugned order is unsustainable. Moreover, a single sentence order has been passed by the Assistant Director of Education from the office of the Divisional Deputy Director’s Office, Aurangabad. Apparently, Rule 41(5) of the MEPS Rules, 1981 has not been considered. The law laid down by this Court has also not been considered. The impugned order is without reasons.

4. In view of the above, this petition is partly allowed. The impugned order dated 17th November, 2022 is quashed and set aside. The proceedings are remitted to the office of respondent No.3 in order to be reconsidered in the light of Rule 41(5) of the MEPS Rules, 1981 and the two judgments referred to hereinabove. The due process as applicable, shall be followed by the said authority while reconsidering the said case and a reasoned order be passed, on or before 31st March, 2023.”

4. In view of the above, the single sentence impugned order dated 01.02.2023, is quashed and set aside. The proposal stands restored to the file of the Education Officer (Primary), Zilla Parishad, Aurangabad to be reconsidered in the light of Rule 41-A of the MEPS Rules, 1981, on its merits. A reasoned order is expected on or before 31st May 2023.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)