

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

904 WRIT PETITION NO.4824 OF 2023

AKASH GANGADHAR KOCHAWAD

VERSUS

THE STATE OF MAHARASHTRA,
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. P. G. Rodge, h/f Mr. K. P. Rodge.

AGP for Respondent/State : Mr. S. K. Tambe.

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

DATE : 25th April, 2023.

Per Court:

1. The Petitioner is aggrieved by the order dated 24th March, 2023 passed by the Education Officer (Secondary), by which his transfer from the unaided establishment to the aided establishment, has not been accorded approval on the ground that the circular dated 1st December, 2022 issued by the State of Maharashtra has stayed the effect of Rule 41A.

2. We are surprised by the fact that the circular dated 1st December, 2022 has already been stayed by this Court at the Nagpur Bench vide order dated 21st December, 2022 in Writ Petition No.8215 of 2022 (*Friends Social Circle, Akola through its Secretary and others Vs. The State of Maharashtra and another*). It is further directed that

Rule 41A shall be complied with until further orders in the said proceedings.

3. It is our experience that such matters come before us practically everyday and it appears that the Education Officers in the districts amenable to the jurisdiction of this Court, are still unaware that the circular dated 1st December, 2022 has been stayed. We, therefore, direct the Principal Secretary, School Education Department, Mantralaya, Mumbai, to issue a circular bringing it to the notice of all the Education Departments in the 12 districts amenable to the jurisdiction of this Court as well as the State of Maharashtra, intimating them that the circular dated 1st December, 2022 has been stayed and Rule 41A is still followed.

4. In view of the above, **this Petition is partly allowed**. The impugned order dated 24th March, 2023, is quashed and set aside with the following directions:-

- A) The case of the Petitioner shall be reconsidered afresh by the Education Officer (Secondary), Zilla Parishad, Latur, in the light of Rule 41 (1) and (2) and Rule 41A (1) (a)(i) and (ii) of the MEPS Rules, 1981.

B) After a careful scrutiny of the claim of the Petitioner and only after noticing that there are no eligible surplus teachers, who can be absorbed on the post available with Respondent No.5 school, that, the case of the Petitioner would be considered.

C) Merely because the management has placed the Petitioner in Respondent No.5 school, would create no equities in his favour.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]