

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

53 WRIT PETITION NO.6568 OF 2023

PAVAN NAGNATHAPPA RAUT  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH  
ITS SECRETARY AND OTHERS

...  
Advocate for Petitioner : Mr. S.B. Choudhari  
AGP for the respondent – State : Mr. S.G. Sangle  
...

**CORAM : MANGESH S. PATIL &  
SHAILESH P. BRAHME, JJ.**

**DATE : 19 JUNE 2023**

**PC :**

Heard both sides finally.

2. The petitioner was appointed on the post of Assistant Teacher has been transferred from unaided division to partly aided division and seeking approval. By the impugned communication, approval has been refused to be granted on the sole ground that operation of Rule 41-1 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 has been stayed by virtue of the government circular dated 01-12-2022.

3. Operation of the very circular dated 01-12-2022 has been stayed by this Court (Nagpur Bench) vide order dated 21-12-2022 in the matter of ***Friends Social Circle, Akola through its Secretary,***

***Mohd. Farooque Gulam Guas and others Vs. The State of Maharashtra through its Secretary, Education and Sports Department, Mumbai and another*** (writ petition no. 8215 of 2022)

4. Besides, the departmental circular cannot supersede the statutory provision.

5. The writ petition is partly allowed.

6. Matter is relegated back to the respondent no. 2 – Education Officer (Secondary), Zilla Parishad, Parbhani for decision afresh which shall be taken as expeditiously as possible, however, approval shall not be refused only on the basis of circular dated 01-12-2022.

**[ SHAILESH P. BRAHME ]**  
**JUDGE**

**[ MANGESH S. PATIL ]**  
**JUDGE**

arp/