

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

WRIT PETITION NO. 6973 OF 2023

WALMIKI SHIKSHAN PRASARAK MANDAL PARBHANI  
THROUGH ITS PRESIDENT AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY  
AND OTHERS

Advocate for Petitioners : Mr. Tripathi Manish Purushottam  
AGP for Respondent/s – State : Mrs. M.A. Deshpande

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

**DATED : 26 JUNE 2023**

**PER COURT :**

1. Heard learned Advocate for the petitioners and learned AGP.
2. The petitioner no. 3 who was appointed as an Assistant Teacher on unaided division has been subsequently transferred to the aided division and the proposal for his transfer has been turned down by the respondent no. 3 – Education Officer, by the impugned communication solely on the ground that by the Government Circular dated 01 December 2022, operation of Rule 41 (1) has been stayed.
3. We have been consistently passing the orders after this

Court at Nagpur Bench in the matter of Friend Social Circle Akola through secretary Mohd. Farooque Gulam Gaus and others Versus The State of Maharashtra and others, Writ Petition No. 8215 of 2022 dated 21.12.2022, has stayed operation of the very circular dated 01<sup>st</sup> December, 2022. Statutory provisions or rules cannot be superseded by the Administrative Act.

4. The Writ Petition is allowed partly. The communication is quashed and set aside. The respondent no. 3 – Education Officer, may take appropriate decision afresh but shall not be rejected on the ground mentioning the impugned order. The decision shall be taken as expeditiously as possible and in any case within a period of six weeks from today.

**( SHAILESH P. BRAHME, J. )**

**( MANGESH S. PATIL, J. )**

SPChauhan