

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

WRIT PETITION NO. 8107 OF 2023

Nandip Shivaji Awate and another .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Ankush N. Nagargoje, Advocate for the Petitioners.
Shri S. K. Tambe, A.G.P. for the Respondent Nos. 1 to 4.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 11TH JULY, 2023.**

FINAL ORDER :

. The petitioner is aggrieved by the order passed by the respondent No. 4/Education Officer (Secondary), Zilla Parishad, Osmanabad, whereby he has refused to grant approval to the transfers of the petitioners from unaided to aided division.

2. We have heard both sides.

3. The only ground on which the respondent No. 4/Education Officer has refused to grant approval is the circular dated 01 December, 2022. In the matter of Friends Social Circle, Akola through its Secretary and others Vs. State of Maharashtra through its Secretary and another Division Bench of this Court at Nagpur vide order dated 21.12.2022 has stayed the operation

of this very circular dated 01.12.2022 *inter alia* observing that such administrative circular cannot supersede the statutory provision contained in Rule 41A of the Maharashtra Employees of Private Schools (Condition of Service) Rules, 1981.

4. The writ petition is partly allowed. The impugned order is quashed and set aside. The matter is remitted back to the respondent No. 4/Education Officer (Secondary), Zilla Parishad, Osmanabad for fresh decision, in accordance with law regarding approval to the transfers of the petitioners. However, it shall not be refused by referring to circular dated 01 December, 2022. The decision shall be taken as expeditiously as possible and in any case within a period of six (06) weeks from today. The writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/July 23