

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

WRIT PETITION NO. 8258 OF 2023

FAROOQUI MOHAMMED MUBASHIRODDIN MOHAMMED SAIFODDIN
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

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Advocate for Petitioner : Mr. Panpatte V. S.
AGP for Respondents/State : Mr. S. K. Tambe

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.
DATE : 13 JULY 2023.**

PER COURT :

Heard the learned Advocate for the petitioner and learned AGP for respondents.

1. The petitioner who was appointed as an Assistant Teacher, was transferred from unaided division to aided division. A proposal was forwarded by the management for grant of approval by the respondent no.2/Assistant Director of Education, Aurangabad, pursuant to the Rule 41(1) of the The Maharashtra Employees of Private Schools (Conditions of Service) Rules. By the impugned communication, approval has been refused only by making reference to the Government Circular dated 01.12.2022.
2. In view of the order dated 21.12.2022 passed by this Court at

Nagpur Bench in the case of **Friends Social Circle, Akola and Others Vs. State of Maharashtra and Anr.** in Writ Petition No.8215/2022, operation of the same circular dated 01.12.2022 has been stayed *inter alia* observing that circulars cannot supersede the statutory provisions.

3. We allow the writ petition partly, quash and set aside the impugned order and remit the matter back to the respondent no.2, who shall take appropriate decision afresh on its own merits, however the approval should not be refused on the ground of circular dated 01.12.2022. The decision shall be taken as expeditiously as possible and in any case within six weeks.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb...