

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

WRIT PETITION NO.8587 OF 2023

**SARIKA DIGAMBAR PATE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS**

**WITH
WRIT PETITION NO. 8491 OF 2023**

**SONAL VIJAY GENDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. Dhananjay Mane, Mr. S. B. Choudhari, Advocates for
Petitioners in respective petition

Mr. V. M. Kagne, AGP for Respondent – State

Mr. A. G. Choudhari, Advocate for Respondent Nos. 3 to 6 in
WP/8587/2023

Mr. R. R. Chandak, Advocate for Respondent Nos. 3 & 4 in
WP/8491/2023

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 25.08.2023

PER COURT :-

1. In both these petitions, the Petitioners pray that this Court should issue a Writ of Mandamus and direct Respondent No.4, a private education society, to forward the proposals of the

Petitioners for bringing them on the aided category from the unaided category/partly aided/fully aided category.

2. None of these private education societies are 'State' under Article 12. A Writ of Mandamus, therefore, cannot be issued unless it is demonstrated that they have a public duty cast upon them.

3. In view of the above, these petitions cannot be entertained.

4. The learned Advocate for the management submits that the management was not proceeding since Rule 41A of the M.E.P.S. Rules 1981 was stayed by a circular dated 01.12.2022 issued by the State Government. Now that the said circular has been quashed and set aside by the Judgment of this Court dated 21.07.2023 in ***Writ Petition No. 8215 of 2022 (Friends Social Circle, Akola and others Vs. The State of Maharashtra and others – Nagpur Bench)***, that the management would now consider the eligible candidates as well as the surplus candidates who may be senior to the candidates available, strictly in accordance with Rule 41A and send a proposal in accordance with law.

5. In view of the above submissions, **these petitions are disposed off.**

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]

SMS