

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

WRIT PETITION NO. 8574 OF 2023

Sandip Ramrao Navghare .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Ramesh I. Wakade, Advocate for the Petitioner.
Shri A. A. Jagatkar, A.G.P. for the Respondent Nos. 1 to 3.
Shri Vasant Patil, Advocate for the Respondent Nos. 4 and 5.

**CORAM : MANGESH S. PATIL AND
SHAILESH P. BRAHME, JJ.
DATE : 19 JULY 2023.**

FINAL ORDER :

. The petitioner who has been transferred from unaided division to aided division pursuant to provisions contained in Rule 41-1 of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Rules is aggrieved by the impugned order passed by the respondent/Education Officer (Secondary) refusing to grant approval by referring to the circular dated 01 December 2022, which *inter alia* stayed operation of the provision.

2. We have heard both the sides.

3. In the light of the order dated 21.12.2022 passed by this Court (Nagpur Bench) in Writ Petition No. 8215 of 2022 in the

matter of Friends Social Circle, Akol through its Secretary and others Vs. State of Maharashtra and another, this very circular dated 01 December 2022 has been stayed. It has also been observed in various orders of this Court that the statutory provisions cannot be superseded by the administrative circulars.

4. We allow the writ petition partly and quash and set aside the impugned order. The matter is remitted back to the Education Officer. The Education Officer shall now take decision afresh on the petitioner's proposal as expeditiously as possible and in any case within a period of six (06) weeks from today. However, it shall not reject the same by referring to the circular dated 01 December 2022. The writ petition is disposed of.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

bsb/July 23