

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

963 WRIT PETITION NO.9369 OF 2023

ANAND PADMAKUMAR MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. Panpatte V. S.
Addl.GP for the respondent – State : Mr. P.S. Patil
...

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

DATE : 01 AUGUST 2023

PC :

Heard both sides.

2. The petitioner who was appointed as a Teacher is challenging the impugned order passed by the respondent – Education Officer (Secondary) on 12-06-2023 whereby his proposal for transfer from unaided division to aided division has been rejected on two counts; firstly, in view of the government circular dated 01-12-2022, which had the effect of staying the operation of rule 41A of the Maharashtra Employees of Private Schools (Conditions of Services) Rules and secondly, on the ground that he had not passed Teacher's Eligibility Test (**TET**).

3. As far as first ground is concerned, in the matter of ***Friends Social Circle, Akola and others Vs. State of Maharashtra***

and others (writ petition no. 8215 of 2022 and connected writ petitions – Nagpur bench judgment dated 21 July 2023) the very circular dated 01-12-2022 has been quashed and set aside meaning thereby that the availability of the circular can no longer be a ground to reject the proposal for transfer pursuant to rule 41A.

4. So far as the second ground is concerned, the dispute regarding mandatory nature of the TET qualification is sub-judice before the Supreme Court and this Court has been ignoring this reasoning and have been calling upon the Education Officers to pass appropriate order ignoring that condition and the decisions are being made subject to the final outcome of the matter before the Supreme Court.

5. We allow the writ petition partly.

6. The impugned order is quashed and set aside.

7. The matter is relegated back to the Education Officer (Secondary) for decision afresh. However, he shall not refuse to grant the approval on the grounds mentioned in the impugned communication / order.

8. However, it is made clear that the decision to be taken by the respondent – Education Officer (Secondary) shall be subject to the final outcome of the matter before the Supreme Court.

9. The decision shall be taken as expeditiously as possible and in any case, within six weeks.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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