

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

WRIT PETITION NO.11836 OF 2023

**BHAUSAHEB BAJIRAO BARVKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS**

...
Advocate for the Petitioner : Shri Tandale Tushar M.
AGP for Respondents 1 to 3/State : Shri V.M. Kagne
Advocate for Respondents 4 and 5 : Shri S.S. Wagh
...

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

DATE :- 26th September, 2023

Per Court :-

1. We have heard the learned Advocates for the respective sides. The Petitioner's proposal for transfer from the partially aided establishment to the fully aided establishment, has been rejected by the Divisional Deputy Director of Education, Aurangabad, by the order dated 30.08.2023 on the ground that Rule 41-A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, has been stayed by the circular of the Government dated 01.12.2022.

2. In hundreds of similar cases, we have passed

specific orders bringing it to the notice of the Education Department that the circular dated 01.12.2022 was already stayed by this Court at the Nagpur Bench on 21.12.2022 in Writ Petition No.8215/2022 (*Friends Social Circle, Akola and others vs. State of Maharashtra and others*) and group of cases. Moreover, by the judgment dated 21.07.2023, the said Writ Petitions have been allowed and the circular dated 01.12.2022 has been quashed and set aside. Yet, orders as like the impugned order in this Petition, are still being passed by the Education Officers as well as by the superior authorities.

3. In view of the above, **this Writ Petition is allowed.** The impugned order dated 30.08.2023 is quashed and set aside. The proposal of the Petitioner stands restored to the file of Respondent No.3, who shall consider the same in the light of Rule 41-A, within 60 days from today.

4. The Divisional Deputy Director of Education, Aurangabad, Shri Anil Sable shall deposit costs of Rs.10,000/- (Rupees Ten Thousand) from his salary bank account through an account payee cheque, in this Court within four weeks from today. The learned Advocate for the Petitioner submits that the said amount may be donated to the Bar Library.

5. The statement is recorded. After the amount is deposited, the same be transferred to the Bar Library of the Advocates' Association of Bombay High Court, Bench at Aurangabad.

kps

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)