

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

45 WRIT PETITION NO.12074 OF 2023

NILESH KISHANRAO JOGDAND
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...
Advocate for Petitioners : Mr. Panpatte V. S.
AGP for Respondents/State : Mr. V.M. Kagne
...

**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRADE, JJ.**
DATE : 3rd October, 2023

PC. :-

1. This is yet another case of an Education Officer passing orders out of ignorance of the orders of the High Court.
2. The Petitioner's proposal for transfer from the unaided establishment to the aided establishment has been rejected vide the impugned order dated 04.08.2023 for the only reason that the Government circular dated 01.12.2022 has stayed the effect of Rule 41-A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.
3. We do not have to consider the entire submissions of the learned Advocates for the respective sides in view of the fact that the said Circular dated 01.12.2022 was stayed by the Nagpur Bench of this Court on 21.12.2022

in Writ Petition No.8215/2022. Recently, on 21.07.2023, the said circular has been quashed and set aside vide the judgment delivered in **Friends Social Circle and Others Vs. State of Maharashtra and another [2023 SCC Online Bom. 1503]**.

4. Considering the above, **this petition is partly allowed.** The impugned order dated 04.08.2023 stands quashed and set aside. The Education Officer shall deposit cost of Rs.5,000/- in this Court from his salary account vide an account payee cheque within three weeks. The learned advocate for the Petitioner submits that the said amount be donated to the Advocate's Association Bar Library, High Court of Bombay, Bench at Aurangabad. Registry to transfer the said amount to the Library.

5. The Petitioner's proposal stands restored to the file of the Education Officer Secondary, Zilla Parishad, Nanded to be reconsidered in the light of all attending circumstances and in view of Rule 41-A which is sustained by this Court.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]