

RAMESHWAR
LAXMAN
DILWALE

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**Sr. No.906
WRIT PETITION NO.14055 OF 2023**

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Date: 2024.02.22
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Nagnath Education Society & Ors. .. Petitioners
Vs.
The State of Maharashtra & Ors. .. Respondents

...
Mr. Prashant Bhavake for the Petitioners.
Mr. V. M. Mali, AGP for the Respondent-State.

**Sr. No.6
WITH
WRIT PETITION NO.15769 OF 2023**

Pallavi Krishna Palsande .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

...
Mr. Prashant Bhavake for the Petitioner.
Mr. A.A. Purav, AGP for the Respondent-State.

**Sr. No.27
WITH
WRIT PETITION NO.6915 OF 2023**

Laxman Dhodiba Khot .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

...
Mr. Prashant Bhavake for the Petitioner.
Mr. Utkarsh Desai for Respondent Nos.6 & 7.
Mr. A.A. Purav, AGP for the Respondent-State.

Sr. No.507

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**WITH
WRIT PETITION NO.4717 OF 2023**

Laxman Mahadev Patil .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

...

Mr. S.N. Biradar i/by Mr. V. V. Salunke for the Petitioner.
Mr. R.P. Kadam, AGP for the Respondent-State.

...

**Sr. No.508
WITH
WRIT PETITION NO.13977 OF 2023**

Ajit Krishna Bagdi .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

...

Mr. Prashant Bhavake for the Petitioner.
Mr. K.S. Thorat, AGP for the Respondent-State.

...

**Sr. No.509
WITH
WRIT PETITION NO.15890 OF 2023**

Sonali Shivraj Mali & Ors. .. Petitioners
Vs.
State of Maharashtra & Ors. .. Respondents

...

Mr. S. N. Biradar for the Petitioners.
Mr. S.B. Kalel, AGP for the Respondent-State.

...

**CORAM : A.S. CHANDURKAR &
FIRDOSH P. POONIWALLA, JJ**

DATE : 19TH DECEMBER, 2023.

P.C. :

1. Since similar issues arising all these Writ Petitions, they are taken up for final disposal by issuing Rule and making the same returnable forthwith. The services of each Petitioner came to be transferred from an unaided section to the aided section of the School. When such transfer was sought to be approved by moving the Education Officer (Secondary), the Petitioners were informed that in view of the Circular dated 01/12/2022 staying the effect and operation of the provisions of Rule 41 A of the Maharashtra Employees of Private Schools Rules, 1981 had been stayed, the proposals could not be considered. Each Petitioner is thus aggrieved by the stand taken by the Education Officer (Secondary).

2. After hearing the learned counsel for the parties, we find that the validity of Circular dated 01/12/2022 to the extent it stayed the operation of Rule 41 A of the Rules of 1981 is concerned, the same was considered in a group of Writ Petitions being Writ Petition No.8215 of 2022 (***Friends Social Circle, Akola & Ors Vs. State of Maharashtra & Ors***). By judgment dated 21/07/2023, the Division Bench has taken a view that by issuing a Circular the operation of a rule validly framed cannot be stayed. A further direction has been issued to re-consider the

proposals of the concerned Teachers in accordance with law. We find that a similar direction is required to be issued in each Writ Petition on the ground that the Education Officer (Secondary) has taken an identical stand that by virtue of the Circular dated 01/12/2022, the transfer of the Petitioners cannot be approved as the provisions of Rule 41 A of the Rules of 1981 had been stayed.

3. Hence, for the reasons assigned in the judgment in ***Friends Social Circle, Akola (supra)*** the following order is passed:-

ORDER

- a) The impugned communication issued by the Education Officer (Secondary) in each Writ Petition refusing to approve the transfer of the each Petitioner from an unaided section to an aided section is set aside.
- b) The proposal in each Writ Petition shall be re-considered in accordance with law after granting opportunity of hearing to the Petitioners. The Education Officer (Secondary) shall take into consideration all relevant aspects and take a decision in accordance with law.
- c) In case such transfer is approved, the concerned authority shall take necessary consequential steps including grant of Shalarth I.D. to the eligible Petitioners. The entire

exercise be conducted within a period of eight weeks of receipt of copy of this order.

4. Rule is disposed of in aforesaid terms with no order as to costs.

[FIRDOSH P. POONIWALLA, J] [A.S. CHANDURKAR, J.]