

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10479 OF 2023

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signed by
SMITA
RAJNIKANT
JOSHI
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- | | | |
|---|--|---|
| 1 | Satish Bhimrao Jadhav |] |
| | Age-52 years, Occu- Service |] |
| | Address Bharnewaid P. O. Anthurne |] |
| | Tal. Indapur, Dist. Pune |] |
| 2 | Dadaram Pralhad Shinde |] |
| | Age 45 years, Occu – Service |] |
| | At Post – Anthurne Taluka Indapur, |] |
| | District Pune. |] |
| 3 | Hanumant Ananda Kharat |] |
| | Age 48 years, Occu -Service |] |
| | Address at Tawshi Taluka Indapur |] |
| | District Pune. |] |
| 4 | Hanumant Tukaram Jadhav |] |
| | Age 46 years, Occu – Service |] |
| | Address Taluka Indapur, Dist. Pune. |] |
| 5 | Bapurao Dnyandev Barge |] |
| | Age – 46 years, Occu – Service |] |
| | Address at Post Tawshi |] |
| | Taluka Indapur, District Pune. |] |
| 6 | Satish Balaso Pawar |] |
| | Age 42 years, Occu – Service |] |
| | Address at Shindewadi Post Kazad |] |
| | Taluka Indapur, District Pune. |] |
| 7 | Sanjay Ramchandra Tupe |] |
| | Age 49 years, Occu -Service |] |
| | Address at post Rangaon |] |
| | Taluka – Indapur, District Pune 413 114. |] |
| 8 | Sandip Balbhim Jadhav |] |
| | Age 52 years, Occu – Service, |] |
| | Address at Kalamb, Post Walchandnager |] |
| | Tal. Indapur, Bharnewad, Dist. Pune |] |
| 9 | Subhash Mahadev Phadtare |] |
| | Age 52 years, Occu – Service, |] |
| | Address at post Vadapuri, |] |
| | Taluka Indapur, District Pune. |] |

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|----|--|---|-----------------|
| 10 | Rajendra Laxman Jagtap |] | |
| | Age 46 years, Occu – Service |] | |
| | Address at post Zargadwadi, Taluka |] | |
| | Baramati, Pune 413 102. |] | |
| 11 | Dashrath Mahadev Suryawanshi |] | |
| | Age 54 years, Occu – Service |] | |
| | Address at post – Dorlewadi, |] | |
| | Taluka Baramati, Pune. |] | |
| 12 | Ramesh Namdeo Jadhav |] | |
| | Age 53 years, Occu – Service |] | |
| | Address at Gholapwadi, Post Uddhat, |] | |
| | Taluka Indapur, District Pune 413 104. |] | .. Petitioners. |
| | v/s. | | |
| | v/s. | | |
| 1 | State of Maharashtra |] | |
| | through the Hon'ble Secretary |] | |
| | School and Education Department |] | |
| | Mantralaya, Mumbai 400 032. |] | |
| | [Summons to be served upon the |] | |
| | Office of Government Pleader |] | |
| | under Order XXVII, Rule 4 of the |] | |
| | Code of Civil Procedure, 1908 |] | |
| 2 | The Education Officer (Secondary) |] | |
| | Yashwantrao Chavan Bhavan, Somwar |] | |
| | Peth, PMC, Pune 411 001. |] | |
| 3 | Deputy Commissioner of Education |] | |
| | Pune, 17, Dr. Ambedkar Marg, |] | |
| | Opposite to Red Temple, |] | |
| | Pune 411 001. |] | |
| 4 | Shri Chatrapati Shikshan Sanstha |] | |
| | Bhavaninagar, Taluka Indapur, |] | |
| | Dist. Pune 413 104. |] | .. Respondents. |

Mr. Nikhil Waje, for the Petitioner.

Mr. N. C. Walimbe, Addl. G. P with Ms. A. A. Purav, AGP for Respondent-State.

Mr. Vishesh Srivastav, for Respondent No.4.

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

DATE : 11th DECEMBER, 2023.

ORAL JUDGEMENT (Per A.S.CHANDURKAR,J.):

The learned Counsel for the Petitioners to supply copies of the Writ Petition since the proceedings were filed through E-filing.

2 **RULE.** Rule made returnable forthwith and heard finally by consent of the learned Counsel for the parties.

3 The Petitioner Nos. 1 to 12 are aggrieved by the communication dated 19th December, 2022 by which, the proposals seeking approval to their transfer from unaided school to aided school have not been decided on the ground that the Circular dated 1st December, 2022 precludes the Education Officer (Secondary) from considering the same. The Circular dated 1st December, 2022 purports to stay the effect of the provisions of Rule 41A of the Maharashtra Employees Private Schools (Conditions of Service) Rules, 1981.

4 In view of the judgment of this Court at Nagpur Bench passed in Writ Petition No.8215 of 2022 (Friends Social Circle, Akola & Others v/s. State of Maharashtra & Others) decided on 21st July, 2023, it has been held that by issuing such Circular, operation of statutory Rules cannot be stayed. Since, that is the only reason for not deciding the proposal, we deem it appropriate to direct the Education Officer (Secondary) to reconsider the said proposals of the Petitioners and decide the same in accordance with law.

5 For the aforesaid reasons, the communication dated 19th December, 2022 and 29th May, 2023 issued by the Education Officer (Secondary) is hereby quashed. The Education Officer (Secondary) shall hear the Petitioners as well as Respondent No.4 – Management and re-consider the proposals, seeking approval to the transfer of the Petitioners from unaided school to aided school. Necessary decision shall be taken within a period of six weeks from receiving a copy of this order.

6 All points on merits are kept open.

7 It is made clear that if Petitioners are not satisfied with the outcome of the said adjudication, they are free to challenge the same in accordance with law. In case, if Petitioners are entitled to such approval, all consequential benefits shall be made available to them.

8 Rule made absolute in the aforesaid terms.

(FIRDOSH P POONTWALLA,J.)

(A.S. CHANDURKAR,J.)