

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

WRIT PETITION NO.13653 OF 2023

Sou. Pratibha D. Chougule .. Petitioner.
v/s.
The State of Maharashtra & Others .. Respondents.

WITH

WRIT PETITION NO.11212 OF 2023

Shri Hanumant R. Bhagat .. Petitioner
v/s.
The State of Maharashtra & Others .. Respondents.

WITH

WRIT PETITION NO.11735 OF 2023

Shri Kedar G. Manjare .. Petitioner
v/s.
The State of Maharashtra & Others .. Respondents.

WITH

WRIT PETITION NO.11734 OF 2023

Smt. Ujwala S. More .. Petitioner
v/s.
The State of Maharashtra & Others .. Respondents.

WITH

WRIT PETITION NO.11737 OF 2023

Minache Khori Shikshan Prasarak
Mandal, Kolhapur & Others .. Petitioners.
v/s.
The State of Maharashtra & Others .. Respondents.

WITH

WRIT PETITION NO.11738 OF 2023

Shri Tukaram R. Parab .. Petitioner
v/s.
The State of Maharashtra & Others .. Respondents.

WITH

WRIT PETITION NO.13664 OF 2023

Shri Pravin B. Kamble .. Petitioner
v/s.
The State of Maharashtra & Others .. Respondents.

WITH

WRIT PETITION NO.13222 OF 2023

Nav Maharashtra Shikshan Mandal,
Mangaon & Others .. Petitioners.

v/s.
The State of Maharashtra & Others .. Respondents.

**WITH
WRIT PETITION NO.13655 OF 2023**

Shri Yallapa P. Patil .. Petitioner
v/s.

The State of Maharashtra & Others .. Respondents.
WITH

WRIT PETITION NO.13663 OF 2023

Shri Mahesh D.Gurav .. Petitioner
v/s.

The State of Maharashtra & Others .. Respondents.
WITH

WRIT PETITION NO.13666 OF 2023

Shri Balasaheb R. Patil .. Petitioner
v/s.

The State of Maharashtra & Others .. Respondents.
WITH

WRIT PETITION NO.13661 OF 2023

Shri Dilip M. Dalvi .. Petitioner
v/s.

The State of Maharashtra & Others .. Respondents.
WITH

WRIT PETITION NO.13657 OF 2023

Smt. Kunti A. Vasave .. Petitioner
v/s.

The State of Maharashtra & Others .. Respondents.
WITH

WRIT PETITION NO.13665 OF 2023

Shri Habib S. Mujawar .. Petitioner
v/s.

The State of Maharashtra & Others .. Respondents.
WITH

WRIT PETITION NO.13668 OF 2023

Shri Krishna M. Powar .. Petitioner
v/s.

The State of Maharashtra & Others .. Respondents.
WITH

WRIT PETITION NO.13662 OF 2023

Shri Arvind D. Farakate .. Petitioner
v/s.

The State of Maharashtra & Others .. Respondents.

WITH
WRIT PETITION NO.13667 OF 2023

Shri Bajirao D. Patil	..	Petitioner
v/s.		
The State of Maharashtra & Others	..	Respondents.

...
Mr. Prashant Bhavake for the Petitioners.
Mr. V. M. Mali, AGP for 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.]