



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.1996 OF 2023

Shivaji Shikshan Prasarak Mandal, Gadchiroli, Thr. Joint Secretary Govindrao Vithobaji Banbale
and ors.

-vs-

State of Maharashtra, Thr. Secretary, Education and Sport Dept. Mantralaya, Mumbai and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri V. N. Morande, Advocate for petitioners.

Ms N. P. Mehta, Assistant Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND MRS VRUSHALI V. JOSHI, JJ.

DATE : August 30, 2023

P. C.

Civil Application (CAW) No.2460/23

1. Since the petitioners seek leave to challenge the orders dated 27/01/2023 and 02/02/2023 rejecting the proposal for grant of approval, the amendment is allowed. Same be carried out forthwith.

Civil Application is disposed of.

Writ Petition No.1996/2023

2. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

Challenge raised in the present writ petition is to the orders dated 27/01/2023 and 02/02/2023 rejecting the proposal dated 02/01/2023 by which approval was sought to the transfer of the petitioner Nos.5 to 10 from un-aided sections to aided sections of the schools run by petitioner No.1-Society. Various reasons have been given for rejection of the proposal. The reasons at Sr. Nos.1 to 5 pertain to various deficiencies which the learned counsel for the petitioners submits have been removed on 13/04/2023 and 17/04/2023. Insofar

as reason No.6 is concerned, the same relates to Government Circular dated 01/12/2022 in the matter of transfer of teachers from un-aided section to aided section.

3. It is not in dispute that the validity of the aforesaid Government Circular to the extent the operation of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 was stayed has been adjudicated in Writ Petition No.8215/2023 (*Friends Social Circle, Akola and ors. vs. State of Maharashtra, Thr. its Secretary, Education and Sport Dept. and ors. with connected writ petitions*) decided on 21/07/2023. We find the interests of justice would be served by passing the following order :

- (i) The petitioners' proposal dated 02/01/2023 shall be re-considered in the light of removal of deficiencies on 13/04/2023 and 17/04/2023. Similarly, the effect of adjudication in *Friends Social Circle, Akola* (supra) in the context of Government Circular dated 01/12/2022 shall also be gone into.
- (ii) To enable re-consideration of the said proposal by respondent No.2, the impugned orders dated 27/01/2023 and 02/02/2023 are set aside.
- (iii) The petitioners through their representative shall appear before the respondent No.2 on 12/09/2023. The respondent No.2 shall consider all relevant aspects and decide the said proposal within a period of four weeks from that date. The decision taken shall be communicated to the petitioners.
- (iv) Keeping all points on merits open, the writ petition is allowed. Rule is disposed of with no order as to costs.

(Mrs Vrushali V. Joshi, J.)

(A. S. Chandurkar, J.)