

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

WRIT PETITION NO. 7390 OF 2022

- 1) Dattatraya Shishan Sanstha,
Irri, Tahsil – District – Gondia,
through its President.
- 2) Swargiya Jamnabai Takrele High School,
Irri, Tahsil – District- Gondia,
through its Headmaster.
- 3) Shri Pawankumar Gulab Daduriya,
Aged 32 years, Occ. - Service,
C/o Swargiya Jamnabai Takrele
High School, Irri, Tahsil-District-
Gondia.

.... **PETITIONERS**

VERSUS

- 1) State of Maharashtra,
through its Secretary, Department
of Education, Mantralaya, Mumbai.
- 2) The Education Officer (Secondary),
Zilla Parishad, Gondia.

.... **RESPONDENTS**

Mr. P.N. Shende, Counsel for the petitioners,
Mr. S.M. Ukey, Addl.G.P for the respondents.

CORAM : ROHIT B. DEO & MR. M.W. CHANDWANI, JJ.
DATED : 30th JUNE, 2023

ORAL JUDGMENT : (PER : R.B. DEO, J.)

Rule. Rule made returnable forthwith. Heard finally with consent of the parties.

2. The petitioners are assailing the order dated 05-9-2022 passed by respondent 2-Education Officer (Secondary), Zilla Parishad, Gondia whereby approval to the transfer of petitioner 3 from unaided school to aided school of the same management is refused.

3. Perusal of the order impugned reveals that the reason stated is ban on new recruitment and on transfers from aided to unaided sections/schools.

4. It appears that the order is passed in view of the policy decision of the State Government to stay the effect and operation of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981.

5. The policy decision is already stayed by the Aurangabad Bench of the High Court.

6. We, therefore, quash the communication impugned.
7. The matter is remitted to respondent 2-Education Officer (Secondary), Zilla Parishad, Gondia for fresh decision after hearing the petitioners.
8. Needless to observe, respondent 2-Education Officer (Secondary), Zilla Parishad, Gondia shall give due consideration to the stay granted by the Aurangabad Bench of the High Court and further, detailed reasons shall be clearly recorded.
9. The petitioners shall appear before the Education Officer on 10-7-2023.
10. The decision shall be taken within three weeks from the date of appearance of the petitioners.
11. The petition is allowed in the aforesaid terms.

(Mr. M.W. Chandwani, J.)

(Rohit B. Deo, J.)

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