



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

WRIT PETITION NO.7237 OF 2023

[Masumiya Urdu Education Society Malkapur and Ors. **..V/s..**
State of Maharashtra and Anr.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
order
and Registrar's orders.*

Court's or Judge's

Mr R. D. Karode, Advocate for Petitioners.
Mr A. S. Fulzele, Addl. GP for Respondent Nos.1 and 2.

CORAM : A. S. CHANDURKAR AND ABHAY J. MANTRI, JJ.

DATE : 26th OCTOBER, 2023.

1. **Rule.** Rule made returnable forthwith. The petition is heard finally with the consent of the learned counsel for the parties.

3. The petitioner No.3 has been appointed on the post of Assistant Teacher at the petitioner No.2 School that is being run by the petitioner No.1-Public Trust. The appointment of the petitioner No.3 was made on an un-aided division of the School. His appointment on the said un-aided division was approved on 22.03.2013. The services of the petitioner were sought to be transferred from the un-aided division to the aided division of the School. Proposal in that regard was forwarded to the Education Officer (Secondary), who by the impugned order dated 12.10.2023 has rejected the same on the ground that since the Circular dated 01.12.2022 has been stayed, the transfer of the petitioner to the aided section cannot be approved.

4. After hearing the learned counsel for the parties, we find that the proposal seeking approval to the transfer of the

petitioner requires re-consideration in view of the fact that the stay that was imposed on the Circular dated 01.12.2022 now stands vacated in the context of Rule 41-A of the Maharashtra Employees of Private Schools (Conditions Service) Rules, 1981. Reference in this regard can be made to the decision in **Writ Petition No.8215 of 2022 (Friends Social Circle, Akola and Ors. vs. State of Maharashtra and Ors.) along with other connected matters.**

5. For the aforesaid reasons, the interest of justice would be served by directing the Education Officer (Secondary) to reconsider the aforesaid proposal in accordance with law and after giving an opportunity to the petitioner. To enable such reconsideration, the order dated 12.10.2023 passed by the respondent No.2 is set aside.

6. The petitioner shall appear before the Education Officer (Secondary) on 06.11.2023. Within a period of four weeks from that date, the Education Officer (Secondary) shall consider the proposal and take a decision thereon.

7. The decision be communicated to the petitioner.

8. Rule is disposed of in the aforesaid terms. No costs.

(ABHAY J. MANTRI, J.) (A. S. CHANDURKAR, J.)