



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

WRIT PETITION NO. 7357 OF 2023

Shikshan Vikas Mandir, through its Secretary and others.

vs.

The State of Maharashtra, through its Secretary, Education and Sports Department,
Mantralaya, Mumbai and another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Ram Karode, Advocate for petitioners.

Shri A.M.Deshpande, In-charge Government Pleader for respondent no.1.

Shri S.S. Shinde, Advocate for respondent no.2.

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

DATE :- 31st OCTOBER, 2023

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

2. The challenge raised in the present writ petition is to the order dated 20.10.2023 passed by the Education Officer (Primary), Zilla Parishad, Amravati thereby rejecting the proposal that was moved by the petitioner No.2-School seeking approval to the transfer of the petitioner No.3 from an un-aided post to aided post.

3. After hearing the learned counsel for the parties, it is seen that the Circular dated 01.12.2022 that stayed the operation of the provisions of Rule 41 A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short, the Rules of 1981) was the subject matter of consideration in *Friends Social Circle through the its Secretary - Mohd Farooque Gulam Gaus and ors vs. State of Maharashtra [2023 SCC Online Bom 1503]*. It has been held therein that the Circular dated 01.12.2022 cannot operate as a stay to the provisions of Rule 41 A of the Rules of 1981. Since that is the only reason for rejection of the proposal, the following order would serve the ends of justice:

- (i) The order dated 20.10.2023 passed by the Education Officer(Primary), Zilla Parishad, Amravati, is set aside.
- (ii) The Education Officer (Primary), Zilla Parishad, Amravati, to re-consider the proposal dated 09.10.2023 that is moved by the petitioner No.2-School seeking approval to the transfer of the petitioner No.3 from an un-aided division to aided division.
- (iii) To enable consideration of the said proposal, the petitioners shall appear before the Education Officer(Primary), Amravati, on 07.11.2023.
- (iv) The Education Officer (Primary) to consider the proposal afresh and take a decision thereon within four weeks from the appearance of the parties before him. Decision taken be communicated to the petitioners.

4. Rule stands disposed of in aforesaid terms. No costs.

(ABHAY J. MANTRI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.