



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

934 WRIT PETITION NO. 6778 OF 2024

SACHIN LAHU PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL SECRETARY AND
OTHERS

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Advocate for the Petitioner : Mr. Patil (Borse) Paresh B.
AGP for Respondent nos. 1 to 3 : Mr. N.D. Batule
Advocate for Respondent no. 4 : Mr. S.R.Dheple

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 04.07.2024

PER COURT :

The petitioners are challenging the decision of respondent no. 4- Education Officer (Primary), thereby refusing to grant approval to their transfer from partially aided school to fully aided school referring to the government resolution dated 01.04.2021, whereby operation of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 was stayed.

2. We have heard the learned advocate for the petitioners, the learned A.G.P as also the learned advocate for respondent no. 4.

3. This Court in the matter of *Friends Social Circle, Through it's Secretary Mohd. Farooque Gulam Gaus and others Vs. State of Maharashtra and others; in Writ Petition bearing Writ Petition No. 8215/2022* and connected matters, by the judgment and order dated 21.07.2023 expressly struck down the government resolution dated 01.12.2022. It is thus quite clear that the impugned communication referring to the government

resolution dated 01.12.2022, as a ground for refusing to grant approval would not be legally sustainable. However, obviously, in the light of the observations in the selfsame judgment in the matter of **Friend Circle Social (supra)** Rule 41A would still be in operation.

4. The Writ Petition is partly allowed. The impugned order is quashed and set aside. The respondent no. 4-Education Officer (Primary) shall reconsider the proposal for grant of approval to the petitioners' transfer on its own merits. However, he shall not refuse to accord permission by referring to the government resolution dated 01.04.2021. The decision shall be taken as expeditiously as possible and in any case within six weeks from today.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-