



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

924 WRIT PETITION NO. 546 OF 2024

**BHAGIRATHI JIVANDHARA PRATISHTHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND OTHERS**

...
Advocate for the Petitioner : Mr. Tripathi Manish Purushottam Purushottam
GP for Respondents/State : Mr. A.B. Girase
...

**CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 17th January, 2024**

PC. :-

1. The Petitioners are aggrieved by the impugned order dated 07.08.2023, by which, approval is not granted to the transfer of Petitioner No.3 from the unaided to the aided school.
2. The only reason for which the approval is declined is that, Rule 41-A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (wrongly typed as 41-1 by the Education Officer in the impugned order), has been stayed by the Government Circular dated 01.12.2022.
3. We have heard the extensive submissions of the learned Advocates for the respective sides.

4. It is undisputed that the Circular dated 01.12.2022, staying the effect of Rule 41-A of the 1981 Rules, was stayed by the interim order of the Nagpur Bench of this Court, dated 21.12.2022, in Writ Petition No.8215/2022 (Friends Social Circle, Akola, thr. its Secretary and others Vs. the State of Maharashtra and another). Subsequently, by a judgment dated 21.07.2023, the said petition along with a group of petitions, were allowed and the Circular dated 01.12.2022, was quashed and set aside.

5. In view of the above, **this Writ Petition is partly allowed.** The impugned order dated 07.08.2023 is quashed and set aside.

6. The proposal of Petitioner No.3 is restored to the file of the Education Officer, who will consider it afresh in the light of Rule 41-A of the 1981 Rules, and pass a reasoned order, within 60 days from today.

7. In the event of any surplus teachers, the Education Officer shall carefully scrutinize the case and pass a reasoned order taking into account the rights of the surplus teachers, as are enshrined in law. Any grievance about the order, that is to be passed by the Education Officer, can be voiced by the Petitioners in appropriate proceeding.

[Y.G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]