

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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Nikita
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Date: 19.11.24
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WRIT PETITION (ST.) NO. 8050 OF 2024

Trupti Tukaram Vekhande and Anr.Petitioners

Vs.

The State of Maharashtra and Ors.Respondents

AND

WRIT PETITION NO.7622 OF 2024

Netaji Shrimant GhorpadePetitioners

Vs.

The State of Maharashtra and Ors.Respondents

Senior Advocate Mr. Narendra V. Bandiwadekar a/w Mr. Vinayak Kumbhar a/w Mr. Rajendra Khaire a/w Mr. Aniket S. Phapale i/b Ms. Ashwini Bandiwadekar for the Petitioner.

Ms. Nisha Mehra, AGP for the State in WP/7622/2024.

Mr. Abhijeet Naik, AGP for the State in WP(st)/8050/2024.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 19th NOVEMBER, 2024

P.C. :-

1. In both these matters, the proposal for seeking approval to the transfer of the Petitioner No.1/Petitioner from the unaided to the aided institution, is rejected on the ground that Rule 41(A) of the Maharashtra Employees of Private Schools, (Conditions of Service) Rules, 1981 has been stayed by the circular dated 1st December, 2022.

2. It is undisputed that the Circular dated 1st December, 2022, was initially stayed by this Court at the Nagpur Bench in Writ Petition No.8215 of 2022 (*Friends Social Circle, Akola and others vs. State of Maharashtra and Ors.*). Eventually, by Judgment dated 21st July, 2023, the Writ Petition was allowed and the Circular was quashed.

3. In view of the above, **both these Writ Petitions are partly allowed.**

4. The impugned orders dated 10th May, 2023 and 23rd November, 2023 stand quashed and set aside.

5. The learned AGP Mr. Abhijeet Naik, submits that the State Government has issued a G. R. dated 3rd October, 2024 through the School Education and Sports Department. The Annexures to the said G. R. indicates a checklist which is to be considered by the Management while sending such proposals. The documents set out in the said Annexure, have to be placed on record, so as to be considered by the Competent Authority for grant of approval.

6. Considering the above stated G. R., and the Annexure, we direct all Education Officers in the State of Maharashtra to share the said G.R. along with the Annexures, with all Managements under their jurisdiction, so as to appraise the Managements as regards the pre-requisites to be fulfilled and submit a proposal, complete in all respects, to the Office of the Education Officer for approval.

7. In view of the above, we permit the Managements in both these matters to prepare a fresh proposal in view of this order and the G.R. dated 3rd October, 2024 and forwarded it to the concerned Education Officer for appropriate action. The Education Officer shall scrutinize the papers and forward the same to the Competent Authority for a decision. Let the entire exercise be completed within

a period of 60 days from the date of the filing of the proposals.

8. It goes without saying, considering several orders that we have passed, that if there are any deficiencies, the Competent Authority would impress upon the Management to cure such deficiencies and until such deficiencies are cured, and the proposal is updated, the same shall not be rejected only for the reason that there are certain deficiencies.

8. In so far as the GR dated 3rd October, 2024, the learned AGP was unable to share the soft copy of the said GR by AIR DROP from his iPad to us, due to some technical issues. He points out that an order dated 7th November, 2023 has been passed by the Learned Single Judge of this Court (M. S. Karnik J.) in Criminal Bail Application No.3559 of 2023, by which, the Law and Judiciary Department is directed to provide the latest version of the iPads to all the law Officers in the office of the learned Government Pleader (Original Side), Government Pleader (Appellate Side), and Government Pleader and Public Prosecutor (Appellate Side).

9. We are informed that the State Government has issued a G. R.

dated 25th June 2024 for disbursing the iPads only to the learned APPs working on the Criminal Side. We hope and trust that the learned Advocate General will personally look into this matter, in order to treat all these law officers on parity, in so far as the grant of iPads to all the AGPs is concerned.

10. In view of the above, **both the Writ Petitions are disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)