

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

**WRIT PETITION NO. 12445 OF 2023**

Shri Somnath Sadashiv Bhosale ... Petitioner  
versus  
The State of Maharashtra & Ors. ... Respondents

...

Mr.Sachin B.Thorat for the Petitioner.

Mr.O.S.Chandurkar, Addl.GP with Ms.Ashwini A.Purav, AGP for  
Respondent Nos. 1 to 3-State.

...

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

**DATE : 5<sup>TH</sup> DECEMBER, 2024**

**PC .**

1. We have heard the strenuous submissions of the learned Advocate for the Petitioner and the learned Addl.GP, who has strenuously defended the impugned order.

2. It does not call for any debate that, until Rule 41A was introduced in the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (the Rules of 1981), it was Rule 41 that was being followed for considering the cases of the teaching and non-teaching staff, for grant of approval to their transfer from the unaided to the partially aided and from partially aided to fully

aided establishments. Subsequently, Rule 41 A was introduced by way of an amendment on 14<sup>th</sup> December, 2020. By a Government Circular dated 1<sup>st</sup> December, 2022, Rule 41A was stayed. The said Circular dated 1<sup>st</sup> December, 2022 was stayed by this Court at the Nagpur Bench on 21<sup>st</sup> December, 2022 in Writ Petition No. 8215 of 2022 (*Friends Social Circle, Akola and others vs. State of Maharashtra and others*). By a judgment dated 21<sup>st</sup> July, 2023, the Rule was sustained and the Circular dated 1<sup>st</sup> December, 2022 was quashed and set aside.

3. In Writ Petition No. 3877 of 2024 (*Ratan Jyotiram Bhandare Versus The State of Maharashtra and Others*), this Court at the Aurangabad has passed certain orders directing the Government to bring the draft Rule 41B on the statute book which was aimed at considering cases of non-teaching employees who are transferred from the unaided to the partially aided and from partially aided to the fully aided establishments. In short, the proposed Rule 41B is *pari materia* to Rule 41A. Recently, by an order dated 13<sup>th</sup> November, 2024 in *Ratan Jyotiram Bhandare (supra)*, the Division Bench of this Court at Aurangabad, has passed an order that until Rule 41B is introduced, keeping in view the earlier decisions cited

by the Petitioner, the case of non-teaching employees shall be considered under Rule 41 of the Rules of 1981.

4. In view of the above, **this Writ Petition is partly allowed** with the following directions :

(a) The proposal is restored to the file of Respondent No.3- Divisional Deputy Director of Education, Pune Region, Pune;

(b) The said proposal shall be reconsidered by Respondent No.3 strictly in accordance with Rule 41 of the Rules of 1981 by carrying out a verification exercise;

(c) A reasoned order shall be passed within a period of 60 days from today. If the Petitioner is eligible, all other benefits available to such candidates, shall be extended without delay.

**(ASHWIN D. BHOBE, J.)**

**(RAVINDRA V. GHUGE, J.)**