



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8638 OF 2024

Nilesh Budhaji Phondekar

...Petitioner

Versus

The State of Maharashtra

Thr. Its Principal Secretary And Ors.

...Respondents

...

Adv. Imtiyaz Patel for the Petitioner.

Adv. Reena Salunke AGP for Respondent Nos. 1 & 2.

...

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

DATE : 19th NOVEMBER, 2024

P.C. :-

1. In this Petition, the proposal for seeking approval to the transfer of the 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, vide order dated 21.12.2022, 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, **this Writ Petition is partly allowed.** The impugned order dated 2nd August, 2023 stands quashed and set aside.

4. The learned AGP Ms. Reena Salunke, 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 Annexures, have to be placed on record, so as to be considered by the Competent Authority for grant of approval.

5. Considering the above stated G. R., and the Annexures, 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.

6. In view of the above, we permit the Managements in this matter 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.

7. 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 view of the above directions, **this Writ Petition is disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)