

Government Circular dated 1 December 2022.

3. The learned counsel for the Petitioners has relied upon the judgment of *Friends Social Circle, Akola & Ors. v/s State of Maharashtra*¹ to contend that the impugned Order is unsustainable. Learned AGP was at pains to justify the impugned Order but could not distinguish the facts of this case from the said Judgment relied.

4. Perusal of the impugned order shows that the only ground on which the proposal is rejected is the Government Circular dated 1 December 2022.

5. In the Judgment of *Friends Social Circle, Akola* (supra), this Court has clearly held that Rule 41 A of the Maharashtra Employees Of Private Schools (Conditions Of Service) Rules, 1981 cannot be stayed by issuance of Government Circular and has set side the said Government Circular to the extent it stays operation and Rule 41 A. Indeed this view has been consistently followed thereafter in number of decisions of this Court. In light thereof, the impugned order cannot be sustained.

6. The impugned order is accordingly quashed and set aside. The proposal of the Petitioner is restored to file. Respondent Education Authority is directed to send the proposal of Petitioner within a period of three weeks from today, to the appropriate authority as per Government Resolution dated 29 April 2024 for decision in accordance with law. If

¹ 2023 SCC OnLine Bom 1503

the concerned Authority proceeds to grant proposal as prayed, consequent benefits will follow.

7. We have not expressed any opinion on the Petitioners' proposal and the same shall be decided on its own merits in accordance with law.

8. Writ Petition is disposed of in the above terms. No costs.

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)