

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

(57) WRIT PETITION NO. 13535 OF 2023

Satish Tatyabhau Waghmore

....Petitioner

Versus

The State Of Maharashtra And Ors.

....Respondents

ALONG WITH

WRIT PETITION (ST.) NO. 257 OF 2024

Jagdish Suresh Thakare

....Petitioner

Versus

The State Of Maharashtra And Ors.

....Respondents

WITH

WRIT PETITION (ST.) NO. 34837 OF 2023

Sarika Dnyandeo Ubale

....Petitioner

Versus

The State Of Maharashtra And Ors.

....Respondents

WITH

WRIT PETITION (ST.) NO. 35306 OF 2023

Rushikesh Baburao Lade

....Petitioner

Versus

The State Of Maharashtra And Ors.

....Respondents

WITH

WRIT PETITION NO. 13536 OF 2023

Sushma Dipak Satpute

....Petitioner

Versus

The State Of Maharashtra And Ors.

....Respondents

WITH
WRIT PETITION NO. 3073 OF 2024

Amol Ravindra Kashid

....Petitioner

Versus

The State Of Maharashtra And Ors.

....Respondents

AND
(23) WRIT PETITION NO.4380 OF 2024

Sudarshan Dinkar Gavade

....Petitioner

Versus

State Of Maharashtra And Ors.

....Respondents

Mr. Saurabh S. Pakale a/w. Mr. Nilesh Desai for Petitioners in WP/13535/2023, WP(ST)/257/2024, WP(ST.)/34837/2023, WP(ST.)/35306/2023, WP/13536/2023 and WP/3073/2024.

Mr. C.G. Patil a/w. Mr. M.G. Bagkar, for Petitioner in WP/4380/2024.

Mr. Milind Deshmukh, for Respondent No.4/ Rayat Shikshan Sanstha in WP/3073/2024, WP(ST.)/257/2024, WP(ST.)/34837/2023 and WP(ST.)/35306/2023.

Ms. Nisha Mehra AGP for Respondent/State in WP/13535/2023 and WP(ST.)/257/2024.

Mr. V.M. Mali AGP for Respondent/State in WP/13536/2023.

Mr. S.B. Kalel AGP for Respondent/State in WP(ST)/34837/2023.

Ms. Reena Salunke AGP for Respondent/State in WP/3073/2024.

Mr. Manish Pabale, AGP for Respondent/State in WP(ST.)/35306/2023.

Mr. B.V. Samant, Addl. G.P. a/w. Ms. Nisha Mehra, AGP for the Respondent State in WP/4380/2024.

**CORAM: NITIN JAMDAR &
M.M. SATHAYE, JJ.**

DATE : 1 APRIL 2024

P.C.:

. Heard learned Counsel for the Petitioners and learned AGP for the Respondent-State. Learned counsel for the Petitioners have stated on instructions that there are no inter-se disputes in the respective Respondent/ Managements who are supporting them. We proceed on the basis of said statement.

2. Common argument in respect of common reason for rejection of proposals, is what brings these matters together. Necessary details for passing this common order are as below.

Sr. No.	Writ Petition No.	Name of the Petitioner	Respondent Education Institute	Impugned order dated	Impugned order Passed By
1	WP/13535/2023	Satish Tatyabhau Waghmode	Adivsi Vidya Prasarak Samaj, Nashik	8/9/2023	Respondent No.3- Education Officer (Secondary), Zilla Parishad, Nashik
2	WP/3073/2024	Amol Ravindra Kashid	Rayat Shikshan Sanstha, District Satara	21/09/2023	Respondent No.3- Education Officer (Secondary), Zilla Parishad, Nashik
3	WP/13536/2023	Sushma Dipak Satpute	Maharaja Yashwantrao Holkar Shikshan Prasarak Mandal, Nashik	4/8/2023	Respondent No.3- Education Officer (Secondary), Zilla Parishad, Nashik
4	WPST/275/2024	Jagdish Suresh Thakare	Rayat Shikshan Sanstha, District	21/9/2023	Respondent No.3- Education Officer

			Satara		(Secondary), Zilla Parishad, Nashik
5	WPST/34837/2023	Sarika Dnyandeo Ubale	Rayat Shikshan Sanstha, District Satara	21/8/2023	Respondent No.3- Education Officer (Secondary), Zilla Parishad, Nashik
6	WPST/35306/2023	Rishikesh Baburao Lade	Rayat Shikshan Sanstha, District Satara	21/9/2023	Respondent No.3- Education Officer (Secondary), Zilla Parishad, Nashik
7	WP/4380/2024	Sudarshan Dinkar Gavade	Shree Shahu Shikshan Prasarak Mandal, Shirol	7/7/2023	Respondent No.2- Education Officer (Secondary), Zilla Parishad, Kolhapur

In the above petitions, respective petitioners/employees working with Respondent Educational Institutes, are challenging respective impugned orders by which the proposal for approval of transferring the petitioners from unaided to aided post within the Institute, are rejected by the respective Respondent Education Officers. All the impugned orders are based solely on Government Circular dated 1 December 2022, granting stay to Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short “Rules of 1981”).

3. Inviting our attention to the judgment passed by the co-ordinate Bench of this Court at Nagpur reported in **2023 SCC**

Online Bom 1503 (Friends Social Circle, Akola & Ors. vs. State of Maharashtra & Ors) in ***Writ Petition No. 8215 of 2022*** and other petitions dated 21 July 2023, learned counsel for the Petitioners have submitted that the said Government Circular dated 1 December 2022, to the extent it stays the operation of Rule 41A of the Rules of 1981, is already set aside and therefore the impugned orders are unsustainable.

4. Perused the impugned orders. The return/rejection of the proposals of the Petitioner teachers is solely based on the Government Circular dated 1 December 2022. Perusal of the aforesaid judgment in the matter of ***Friends Social Circle (Supra)*** shows that the Government Circular dated 1 December 2022 is indeed already set aside to the extent it stays the operation of Rule 41A of Rules of 1981. The said decision has been followed by this Court in the subsequent Writ Petition No. 7272 of 2023, Writ Petition No. 6030 of 2023 and Writ Petition No. 16078 of 2023 with companion petitions. The present impugned orders are covered by the aforesaid judgment/orders.

5. In that view of the matter, we dispose of all the above writ petitions by following order :

- (a) Respective impugned orders are quashed and set aside and proposals of the Petitioners are restored.
- (b) We direct that if there are any other grounds on which the respective Respondent Education Officers intend to return

or reject the proposals of the Petitioners, they are directed to communicate the same to the respective Respondent-Educational- Institutes within a period of 3 weeks from today. The Respondent- Educational Institutes shall thereafter submit their explanation to the proposed grounds, alongwith supporting material including the Government Resolution, case laws, orders of this Court etc., if relied upon. The respective Respondent- Education Officers are directed to decide the proposals of the Petitioners thereafter within a period of eight weeks by dealing with the explanation so given and also dealing with the case laws, orders of this Court by passing a reasoned order, subject to other time bound directions.

(c) We have not expressed any opinion on the Petitioners' proposals and same shall be decided on its own merits and in accordance with law. The proposals will not be rejected on the ground of Government Circular dated 1 December 2022. Needless to mention that if the respective Respondent-Education Officer proceeds to grant the Petitioners' proposals as prayed, the consequential benefits will follow and in that case the aforesaid procedure/directions will not apply.

6. The Writ Petitions are disposed of in above terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)