

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 15526 OF 2023

Sau. Shinde Pritam Mangesh. ... Petitioner.

V/s.

The State of Maharashtra and others. ... Respondents.

Mr.K.D.Dhamale for the Petitioner.

Ms.Nisha Mehra, AGP for the Respondent- State.

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CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.

DATE : 30 April 2024.

P.C. :

Heard the learned counsel for the parties.

2. The Petitioner who is working with Respondent No.4- Management has challenged the order passed by the Education Officer (Secondary), Zilla Parishad, Satara dated 4 August 2023 rejecting the proposal submitted by the Respondent- Management in respect of posting of the Petitioner from unaided to aided division within the Respondent- Management. The proposal is rejected on the ground that the State Government by issuing Government Resolution has stayed consideration of such proposals.

3. The learned counsel for the Petitioner submits that there is a specific provision namely Rule 41-A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 and the Division Bench of this Court (Nagpur Bench) in the case of *Friends Social Circle, Akola v. State of Maharashtra*¹ has declared that Rule 41-A cannot be suspended by way of executive instructions. Since large number of matters were still coming up before the Court, the Division Bench of this Court in the case of *Shri Nitin Bhika Tadge v. State of Maharashtra*², has directed the State Government to examine the issue and, if the decision in the case of *Friends Social Circle, Akola* is being accepted by the State, then to issue follow up instructions to all the concerned authorities. The learned AGP has placed before us the Government Resolution dated 29 April 2024 issued pursuant to the order passed in the case of *Shri Nitin Bhika Tadge*. It is stated therein that in cases where no orders are passed by the Court, the proposals regarding posting from unaided to aided or from partially aided to aided divisions within the Management should be considered by the State Government and not by the Education Officer.

4. That being the position, the impugned order dated 4 August 2023 is quashed and set aside. The proposal submitted by the Respondent- Management is restored to the file of the Education Officer (Secondary) who shall take necessary steps as per the

1 Writ Petition No.8215/2022 and others decided on 21 July 2023.

2 Writ Petition No.204/2019 and others decided on 16 April 2024.

Government Resolution dated 29 April 2024. The State Government to whom those papers would be forwarded will make an endeavour to take a decision within a period of eight weeks, subject to earlier time-bound matters and urgent public duties. The proposal would be considered on its own merits.

5. Writ petition is disposed of in the above terms.

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)