

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

WRIT PETITION NO. 16078 OF 2023

1. Mangaon Taluka Education Society
Through Its Chairman
2. N. M. Joshi Vidya Bhavan, Goregaon
3. Doshi Minal Mahesh
....Petitioners
Versus
The State Of Maharashtra & Anr
....Respondents

**WITH
WRIT PETITION NO. 16082 OF 2023**

1. Mangaon Taluka Education Society
Through Its Chairman
2. N. M. Joshi Vidya Bhavan, Goregaon
3. Kasarekar Yogesh Shankar
...Petitioners
Versus
The State Of Maharashtra & Anr
....Respondents

**WITH
WRIT PETITION NO. 16084 OF 2023**

1. Mangaon Taluka Education Society
Through Its Chairman
2. M. D. Tol Madhyamik Vidyalaya, Chimbhave
3. Pailkar Vinayak Ramchandra
...Petitioners
Versus
The State Of Maharashtra & Anr
....Respondents

**WITH
WRIT PETITION NO. 16089 OF 2023**

1. Mangaon Taluka Education Society
Through Its Chairman
 2. N. M. Joshi Vidya Bhavan, Goregaon
 3. Kharade Nerendra Sadashiv
- ...Petitioners
- Versus
- The State Of Maharashtra & Anr. ...Respondents

**WITH
WRIT PETITION NO. 16092 OF 2023**

1. Mangaon Taluka Education Society
Through Its Chairman
 2. M. D. Tol Madhyamik Vidyalaya, Chimbhave
 3. Kamat Anuradha Manoj
- ...Petitioners
- Versus
- The State Of Maharashtra & Anr. ...Respondents

Mr. Vinod Sangvikar a/w. Ms. Nikita Bhosale, Mr. Yogesh Morbale, Mr.
Mr. Ram Karode for Petitioners
Ms Rupali Shinde, AGP for State-Respondent

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

DATED : 1 MARCH, 2024

P.C.:

1. Heard learned Counsel for the Petitioners and learned AGP for the Respondent-State.
2. These petitions are arising out of the impugned orders dated 25

October 2023 passed by the Respondent No. 2-Education Officer (Secondary), Zilla Parishad, Raigad, rejecting the approvals to transfer of Petitioner No. 3 - teachers from unaided to aided post, on the ground that the operation of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short "Rules of 1981") is stayed by the Government Circular dated 1 December 2022. In all these matters, the Educational Institute is common and the teachers are from two schools run by the said Institute

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 has 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 of the proposals of the Petitioner No. 3 - 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 other petitions

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

(a) Impugned orders dated 25 October 2023 are quashed and set aside and proposals of the Petitioner No. 3 teachers are restored.

(b) We direct that if there are any other grounds on which the Respondent No. 2-Education Officer intends to return or reject the proposals of the Petitioner No. 3-teachers, he is directed to communicate the same to the Petitioners within a period of 3 weeks from today. The Petitioners shall thereafter submit their explanation to the proposed grounds alongwith supporting materials including the Government Resolution, case laws, orders of this Court etc., if relied upon. The Respondent No. 2-Education Officer is directed to decide the proposals of the Petitioner No. 3-teachers thereafter within a period of 8 weeks by dealing with the explanation given by the Petitioners 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 Respondent-Education Officer proceeds to grant the Petitioners' proposals as prayed, the consequential benefits will follow and in that case the aforesaid procedures/directions will not apply.

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

(M. M. SATHAYE, J.)

(NITIN JAMDAR, J.)