

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

WRIT PETITION NO. 11695 OF 2024

Vikas Pandurang Sabale

...Petitioner

Versus

The State Of Maharashtra

Thr. The Secretary School Education Dept.

And Ors.

...Respondents

Mr. Narendra Bandiwadekar, Senior Advocate a/w Mr. Vinayak Kumbhar, Mr. Rajendra Khaire, Mr. Aniket Phapale i/by Ms. Ashwini Bandiwadekar, Advocate for the Petitioner.

Mr. Vikas Mali, AGP for Respondent Nos.1 to 3/State.

CORAM : RAVINDRA V. GHUGE

&

M.M. SATHAYE, JJ.

DATE :- 15th OCTOBER, 2024

PER COURT :-

1. The proposal for seeking approval to the transfer of the Petitioner from unaided to aided establishment has been turned down by order dated 13th June, 2023 passed by Respondent No.2/ Deputy Director of Education concluding 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 in Writ Petition No.8215 of 2022 (*Friends Social Circle, Akola and others vs. State of Maharashtra and others*) and 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 13th June, 2023 is quashed and set aside. Respondent No.2 shall consider the proposal forwarded by the Management dated 13th June, 2022 strictly in accordance with Rule 41(A) and would also consider the availability of surplus teachers who have to be granted precedence. The Government Resolution dated 29th April, 2024, shall be considered while deciding the said proposal. The proposal shall be dealt with on its merits. We make it clear that we have not expressed any opinion in favour of the proposal.

(M.M. SATHAYE, J.)

(RAVINDRA V. GHUGE, J.)