

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

WRIT PETITION NO.6120 OF 2024

Jayshree Shrimantrao SuvarnakarPetitioner

Versus

The State of Maharashtra and Ors.Respondents

Mr. Vinod P. Sangvikar a/w. Mr. Yogesh Morbale, Mr. Siddheshwar
S. Galande and Mr. Arjun Maner for the Petitioner.

Mrs. Nisha Mehra, AGP for Respondent No.1.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 20th DECEMBER, 2024

P.C. :-

1. The Petitioner is in employment. The approval to her appointment is intact. The approval to her transfer from the 20% aided establishment to the 100% aided establishment, has been declined vide the impugned order dated 28th December, 2022 passed by Dr. Minakshi Raut, Administrative Officer, Education Department, Primary, Pune Municipal Corporation, purely on the belief that the circular dated 1st December, 2022 has resulted in staying the operation of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 [MEPS Rules].

2. Apparently, the author of the impugned order was oblivious of the fact that the said circular was already stayed vide order dated 21st December, 2022 in Writ Petition No.8215 of 2022 at High Court of Bombay, Nagpur Bench (***Friends Social Circle, Akola and Ors. v/s. State of Maharashtra and Ors.***). Subsequently, by a judgment dated 21st July, 2023, the said circular has been quashed and set aside.

3. Since the impugned order rests on a solitary ground, which was unavailable when the order was passed on 28th December, 2022, we are not issuing notice to the Respondents as the impugned order is void *ab initio*. The same is quashed and set aside.

4. The proposal dated 3rd October, 2022 is restored to the file of Respondent No.2. Fresh notice of hearing would be issued by Respondent No.2 and the hearing would be scheduled on 13th January, 2025 at 12 noon. All the stakeholders would be given an opportunity of hearing. After following the due procedure laid down in law, a reasoned order on the proposal shall be passed by relying upon Rule 41A of the MEPS Rules and the policies as may

be applicable.

5. **This Writ Petition is disposed off** with the above directions.

6. The Petitioner shall serve a copy of this order, obtained from the official website of the Bombay High Court, on Respondent No.2, by Speed Post/R.P.A.D.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)