IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7666 OF 2024

Kalyani Vikram Barge
(Ms. Kalyani Subhash Bhosale) & Anr. ...Petitioners

Versus

The State Of Maharashtra
Thr. The Secretary, School Edu. Dept. & 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 Petitioner No.1 from the unaided to aided establishment, has been turned down by order dated 27th September, 2023 passed by the Education Officer, concluding that Rule 41(A) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981, has been stayed by the Circular dated 01st December, 2022.

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2. It is undisputed that the Circular dated 01st 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 27th September, 2023 is quashed and set aside. Respondent No.3 Education Officer shall consider the proposal forwarded by the Management dated 29th August, 2023 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.)**