



(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

932 WRIT PETITION NO. 4693 OF 2025

1. Young Boys Educational & Industrial Circle, Dhule, thr. its
President

2. Islahul Banat Urdu Girls High-School &
Jr. College of Science, Dhule

3. Nazneen Parveen Siraj Ahemad

4. Mohamad Sajid Mohamad Ibrahim

VERSUS

1. State of Maharashtra, Through Secretary for School Education
And Sports Department, Mantralaya, Mumbai

2. Directorate of Education, Pune

3. Deputy Director of Education, Office of Divisional Commissioner,
Nashik Road, Nashik

4. Education Officer (Secondary), Zilha Parishad, Dhule,
Tal & Dist. Dhule

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Mr P. V. Barde, Advocate for petitioners

Mr M. M. Nerlikar, Addl.G.P. for respondents/State

CORAM : MANGESH S. PATIL

AND

PRAFULLA S. KHUBALKAR, JJ.

DATE : 8th April, 2025

PER COURT:

1. The petitioners/Management and its employees, aggrieved by the fact that when a proposal was forwarded duly complied with in all respect for grant of approval to the transfers effected by resorting to Rule 41-A of the Maharashtra Employees of Private Schools

(2)

(Condition of Service) Rules, 1981 (for short 'MEPS Rules'), the respondents/Deputy Director of Education and Director of Education, by resorting to the Government Resolution dated 29/04/2024, have forwarded it to the State Government, contrary to the decision in the matter of **Friends Social Circle and others Vs. State of Maharashtra and others, 2023 (5) ALL MR 601**, which had struck down a similar attempt in the form of Government Resolution dated 01/12/2022 and the decision of this Division Bench in **Mansi Arun Kelkar Vs. State of Maharashtra and others** (Writ Petition No.1021/2025 decided on 03/02/2025), which has already held the relevant clause of the Government Resolution dated 29/04/2025 and the subsequent Circular dated 03/10/2024 to be not sustainable in law.

2. We have heard both the sides.

3. Contrary to the statutory mechanism in the form of Rule 41 and 41-A of the MEPS Rules, the aforementioned Circular seek all such proposals for grant of approval to the orders of transfer effected thereunder, to be forwarded to the State Government for consideration.

4. We have considered this aspect in the matter of Mansi Arun Kelkar (supra) in following words :-

(3)

“5. In our considered view, when a similar attempt to stall the operation of Rule 41-A was made by issuing GR dated 01.12.2022, and when this Court in the matter of **Friends Social Circle and others Vs.State of Maharashtra and others [2023(5) ALL MR 601]** had struck down such an attempt expressly observing that the Rules cannot be intermeddled issuing departmental circulars and referring to the decision of the Supreme Court in the matter of **Dr. Rajinder Singh Vs. State of Punjab and Others [(2001)5 SCC 482]**, in our considered view, issuing a similar circular again in the form of circular dated 29.04.2024 is clearly an attempt at undermining authority of the High Court. The stand of the State Government even before coming out with an amendment to Rule 41-A to regulate operation of Rule 41-A is highly objectionable. In spite of being aware that a similar attempt was expressly struck down, the State has indulged into such an exercise.”

5. In the light of above, the writ petition is allowed partly with a direction to respondent No.3/Deputy Director of Education to consider the proposal and take appropriate decision in accordance with Rule 41-A of the MEPS Rules on its own merits, as expeditiously as possible and in any case, within a period of eight weeks, without resorting to the Government Resolution dated 29/04/2024 and Circular dated 03/10/2024.

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)

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