

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

925 WRIT PETITION NO.5728 OF 2024

Shri Chhatrapati Shivaji Shikshan Sanstha
Through Its Secretary And Others

Versus

The State Of Maharashtra Through Its Secretary And Others

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Shri. Aniket S. Avhad h/f. Shri. S. R. Kedar, Advocate for the Petitioners
Smt. V. S. Chaudhari, AGP for the Respondent / State.
Shri. P. D. Suryawanshi, Advocate for Respondent Nos.3 & 4

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CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

Dated : JULY 10, 2025

PER COURT :-

. Petitioner No.3 is working as the 'Assistant Teacher' in the Petitioner No.2 – School which is managed by Petitioner No.1 - Management. Petitioner No.3 came to be transferred from unaided school to aided school. Petitioner No.2 - Headmaster had sent the proposal seeking approval for the transfer of Petitioner No.3 from unaided school to aided school to Respondent No.3 – Education Officer (Primary), Zilla Parishad, Beed, which came to be rejected by the impugned order dated 20.03.2024, on the ground that the Government Resolution dated 01.04.2021 which permits such transfers, was stayed by the Government Circular dated 01.12.2022.

2. Learned Advocate for the Petitioners submits that the Circular dated 01.12.2022 on the basis of which the proposal of the Petitioner No.3 came to be rejected, was quashed and set aside by the Judgment dated 21.07.2023 delivered by the Bombay High Court at Nagpur Bench in Writ Petition No.8215 of 2022 (*Friends Social Circle, Akola and*

Others vs. State of Maharashtra and Others). He further submits that this Court in Writ Petition No.3950 of 2024 decided on 18.04.2024 observed in paragraph nos.3 and 7 as under:

“3. In one of the several cases that came up before this Court, we have directed the Principal Secretary, Higher Education to circulate the order to all the Education Officers in the State of Maharashtra intimating them that the circular dated 01.12.2022 is quashed and set aside and that should not be a basis for rejection of a proposal forwarded under Rule 41-A. Yet the impugned order has been passed.

7. Considering the gesture and the unconditional apology of the Education Officer, the said request is accepted. The impugned order stands recalled. The Education Officer shall decide the proposal on its own merits by considering the record that is necessary to be taken into account, within a period of 60 days from today.”

3. He further submits that the impugned order be quashed and set aside and the matter be remanded back to Respondent No.3 for fresh decision in accordance with law within a period of one (1) month.

4. Learned Advocate appearing for Respondent Nos.3 and 4 submits that, if the matter is remanded back, the same would be considered in accordance with law.

5. After hearing both the sides and considering the observations of this Court in the above referred Petitions on which there is no dispute, the impugned order, which is based on the said Circular dated 01.12.2022, is liable to be set aside. Hence, we proceed to pass the following order.

ORDER

(i) The Petition is partly allowed.

(ii) The impugned order dated 20.03.2024 passed by the Respondent

No. 3 is quashed and set aside.

(iii) The Respondent No.3 shall consider the proposal of the Petitioner No. 3 transferring him from unaided school to the aided school, on its own merits and in accordance with law, within a period of six (6) weeks from the date of receipt of copy of this order.

(iv) Petition stands disposed off accordingly.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

GGP