



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

54 WRIT PETITION NO. 2935 OF 2025

MACHHINDRA TATYABA KADAM
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

...
Advocate for the Petitioner : Mr. Khutwad Manoj Ramdas
AGP for Respondents: Mr. Amar V. Lavte

...

CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR , JJ.
DATE : 04.03.2025

PER COURT :

Heard.

2. The learned advocate for the petitioner submits that the petitioner is seeking transfer from partially aided division to aided division by respondent no. 3-management, in light of the provisions of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) *Rules, 1981, (M.E.P.S. Rules)* and the Government circular dated 29.04.2024.

3. He submits that the petitioner has submitted an application dated 16.06.2024, with respondent no. 3 Management and is also seeking direction to the management for taking decision on his application.

4. Taking into consideration the fact that Rule 41 and 41A of the M.E.P.S. Rules, give a prerogative to the management to effect transfers of its teaching and non-teaching employees from one school to the other school being run by it, in our considered view, no writ under Article 226 of the Constitution of India would lie against the management in the manner solicited by the petitioner.

5. Of course, considering Rule 41A of the M.E.PS. an employee would have a cause to agitate if contrary to the provision, a junior employee is sought to be or is transferred to an aided division. Till the time the management does not transfer any employee junior to the petitioner, the petitioner will not have any cause of action and cannot seek a writ of mandamus.

5. The writ petition is disposed of with liberty to the petitioner to resort to the appropriate remedy, including filing of writ petition, if and when there is a cause of action.

(PRAFULLA S. KHUBALKAR J.)

(MANGESH S. PATIL, J.)

mkd/-