

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

WRIT PETITION NO. 10319 OF 2024

Shri Pravin Sopandev Naik
Age: 37 Years, Occupation : Service,
R/o. A/P. Khatangale, Tal.Karvir,
District : Kolhapur ... Petitioner

versus

1. The State of Maharashtra,
Through the Secretary,
School Education and Sports
Department, Mantralaya,
Mumbai – 400 032
2. The Commissioner of Education,
School Education Department,
Maharashtra State, Pune.
3. The Director of Education,
(Secondary and Higher Secondary),
Maharashtra State, Pune-1.
4. The Deputy Director of Education,
Kolhapur Region, Kolhapur,
Having office at, Hatti Mahal,
Ganji Galli, Somwar Peth,
Kolhapur
5. The Education Officer (Secondary),
Zilla Parishad, Kolhapur,
Having Office at, Zilla Parishad
Building, Nagala Park, Kolhapur
6. Shri Laxmi Shikshan Prasarak Mandal,
Laxmitek Parisar, Radhanagari Road,
Kolhapur, Through its President/ Secretary

7. Shri Vasantrao Jaywantrao Deshmukh,
High School, Laxmitek Parisar,
Radhanagari Road, Kolhapur,
Through Its Head Master ... Respondents

Mr.Prashant Bhavake for the Petitioner.
Mr.B.V.Samant, Addl.GP with Ms.Priyanka Chavan, AGP for
Respondent Nos. 1 to 5, State.
Mr.Akil Kupade for Respondent Nos. 6 and 7.

**CORAM : RAVINDRA V. GHUGE &
SHYAM C. CHANDAK, JJ.**

DATE : 3rd February, 2025

ORAL JUDGMENT : (Per : Ravindra V. Ghuge, J.)

1. **Rule.** Rule made returnable forthwith and heard finally
with the consent of the parties.

2. This is yet one more case wherein unnecessary litigation
has been generated on account of the ignorance of the Education
Officer, Respondent No.5 herein.

3. The Management has transferred the services of the
Petitioner from the unaided establishment to the fully aided
establishment. An approval for such transfer was sought. The
Education Officer, Dr. Eknath Aambokar, passed the impugned

order on 2nd November, 2023 concluding that Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (the Rules of 1981), has been stayed by a Government Circular dated 1st December, 2022.

4. It is shocking that the Education Officer is unaware that the said Circular dated 1st December, 2022 was stayed by this Court at the Nagpur Bench on 21st December, 2022 in Writ Petition No. 8215 of 2022 (*Friends Social Circle, Akola and others vs. State of Maharashtra and others*). Subsequently, by judgment dated 21st July, 2023, the Rule 41A was sustained and the Circular dated 1st December, 2022 was quashed and set aside. As a consequence, the State of Maharashtra issued a Government Resolution on 3rd October, 2024. Nevertheless, on the date of the impugned order, the Education Officer was expected to be aware of these facts.

5. In view of the above, **this Writ Petition is allowed**. The impugned order dated 2nd November, 2023 is quashed and set aside.

6. Since the Education Officer has not taken up any other ground as a deficiency, save and except, the Circular dated 1st

December, 2022, we direct him to grant approval to the transfer of the Petitioner, within a period of 30 days, provided eligible surplus teachers are available.

7. The learned Addl.GP submits that the cost may not be imposed.

8. Considering the glaring facts as recorded above, we are imposing nominal cost of Rs.2500/- which the Education Officer shall deposit in this Court from his salary bank account, within a period of 30 days from today. The said amount shall stand donated, by the consent of the Petitioner, to the High Court Employees Medical Welfare Fund at Mumbai, details of which are as under :

Account Name:	The High Court Employees Medical Welfare Fund at Mumbai
Account No. :	000120110001337
Bank :	Bank of India
Branch :	Mumbai Main
IFSC Code :	BKID00000001

9. In the event, the Petitioner is granted the approval as per the aforesaid directions, the Shalarth ID procedure shall be completed by the Management and the statutory authorities, so as to ensure that the Petitioner gets his salary through the Shalarth ID.

10. Rule is made absolute in the above terms.
11. List this disposed off Petition for recording compliance,
on **7th March, 2025**.

(SHYAM C. CHANDAK, J.)

(RAVINDRA V. GHUGE, J.)