

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

WRIT PETITION NO. 4548 OF 2024

Sachin Sampat Javir. ... Petitioner.
Versus
The State of Maharashtra & Ors. ... Respondents.

Mr. Ashish P. Pawar, for the Petitioner.

Mr. V.M. Mali, AGP for Respondent/State.

Mr. Bhushan Jadhav i/b. Mandar Bagkar, for Respondent Nos. 4 and 5.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 18th FEBRUARY, 2025

P.C. :

1. Not on board. By consent of the parties, taken on board.
2. The Petitioner is aggrieved that the proposal for transferring his services from the unaided non-teaching category to the aided non-teaching establishment, has been rejected by an order dated 11.5.2022.
3. This Petition filed on 23.8.2022, is registered in 2024. The learned AGP submits that, as on 11.5.2022, there was no provision for approving the transfer of non-teaching employees from the unaided

establishment to the aided establishment, akin to the provision under Rule 41(A) to approve such transfers in so far as the teaching category is concerned.

4. This Court has delivered a Judgment in *Friends Social Circle, Akola vs. State of Maharashtra & Ors. (Writ Petition No. 8215 of 2022)*, by which the Government Circular dated 1.12.2022, which was initially stayed on 21.12.2022, was finally quashed on 21.7.2023. So also, the State is contemplating introduction of Rule 41-B on the lines of Rule 41-A, for the non-teaching staff. It is well settled that until such provision is introduced, Rule 41 would continue to apply even to the non-teaching category.

5. In view of the above, **this Petition is disposed off**. The impugned order will lose its efficacy. The Management shall submit a fresh proposal seeking approval to the transfer of the Petitioner from the unaided establishment to the aided establishment. The competent authority would decide it on its own merits and by considering the various modalities prescribed under Rule 41 of the MEPS Rule, 1981. While conducting the verification of the documents and records, the concerned officer would also verify the seniority list and arrive at an appropriate decision on the proposal within a period of 60 days from

today. The availability of vacancies will also be considered. If the proposal is rejected, the concerned officer would assign reasons for such rejection.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)