

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

SUO MOTU CONTEMPT PETITION NO. 4 OF 2025

IN

WRIT PETITION NO. 3343 OF 2025

High Court on its own Motion

...Petitioner

Versus

Mahesh Chothe, Deputy Director of Education

...Respondent

Mr. Narendra Bandiwadekar, Sr. Advocate a/w Mr. Vinayak Kumbhar, Mr. Rajendra Khaire, Mr. Aniket Phapale i/by Ms. Ashwini Bandiwadekar, Advocate for the Original Petitioner in WP/3343/2025.

Mr. Mihir Desai, Sr. Advocate for the Respondent in SMCPC/4/2025.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 25th APRIL, 2025

P.C. :-

1. In Writ Petition No.3343 of 2025, we have passed the following order on 4th April, 2025 :-

“1. This case once again involves the same Deputy Director of Education, Kolhapur Division, Kolhapur, Mr.Mahesh J. Chothe.

2. The proposal of Petitioner No. 1, dated 1st August, 2023, was forwarded to the Office of

Respondent No.2, the Deputy Director of Education, Kolhapur Division, Kolhapur, for appropriate orders under Rule 41A of The Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (the Rules of 1981). The said proposal has been rejected vide the impugned order dated 23rd January, 2024 on the ground that the Government Resolution (in fact, it is a Government Circular) dated 1st December, 2022 is in force.

3. *It needs mention that the Government Circular dated 1st December, 2022 had placed Rule 41A (wrongly mentioned as Rule 41-1 in the Circular as well as the earlier Government Resolution dated 1st April, 2021), in abeyance. 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, Rule 41A was sustained and the Circular dated 1st December, 2022 was quashed and set aside.*

4. *The Petitioners, in the above circumstances, have approached this Court. The copy of the judgment in **Friends Social Circle, Akola and others** (supra) is placed on record at Page No. 38 onwards.*

5. *In response to this Petition, Mr. Mahesh J. Chothe, the Deputy Director of Education, has tendered an affidavit-in-reply dated 4th March, 2025. In paragraph 1, it is stated that he has gone through the copy of the Writ Petition with all annexures thereto. He has perused the official record pertaining to the subject matter of the case and based on the information derived therefrom, he is filing this affidavit. In paragraph 6, the said Officer has mentioned as under :*

“6. I further submit that Petitioner No.3, the Junior College, had submitted a proposal to

this Respondent office on 1.8.2023 regarding the transfer of Petitioner No.1 from partially aided division to aided division, which had been effected on 1.8.2023. This Respondent office, vide communication letter dated 23.1.2024, returned the Petitioners' unaided-to-aided division transfer proposal, stating that, in accordance with the Government Resolution dated 01.12.2022 and the Government Notification 08.06.2020, specifically Rule 5, Sub rule (41-A), and the consequent Government Resolution dated 01.04.2021, further directives in this regard have been put on hold until further orders".

6. *It is, thus, clear that despite the copy of the judgment in **Friends Social Circle, Akola and others** (supra) having been placed on record by which the Circular dated 1st December, 2022 has been quashed and set aside, the concerned Officer reiterates that the rejection of the proposal is in accordance with the Circular dated 1st December, 2022.*

7. *The above statement, despite the judgment of this Court having been brought to the notice of the concerned Officer, has a semblance of an intention to overbear the authority of the Court and a willful and deliberate act to overlook the said judgment and continue to reiterate a stand which is illegally taken by him, when the Circular dated 1st December, 2022 has already been set aside.*

8. *This is not the first time that this Court has expressed displeasure about the conduct of the concerned Officer. However, in the present situation, he has taken things too far by reiterating an illegal stand, though **Friends Social Circle, Akola and others** (supra) was cited to him.*

9. *In view of the above, we are SUO-MOTO issuing contempt notice in the format prescribed under the Contempt of Courts Act, 1971 to Shri Mahesh Chothe, returnable on **21st April, 2025**. We direct the registry to register this proceeding as a SUO-MOTO CONTEMPT proceeding. The concerned Officer instructs the learned AGP to waive service of notice, on his behalf.*

10. *We are listing the said suo-moto Petition on **21st April, 2025** for framing of charges. If the said Officer desires to file an additional affidavit, notwithstanding that he has already taken a stand in confrontation with the judgment in **Friends Social Circle, Akola and others** (supra), office to accept the additional affidavit, if filed, on or before 15th April, 2025.*

11. ***This Writ Petition is allowed.** The impugned order dated 23rd January, 2024 is illegal and unsustainable and the same is quashed and set aside. The proposal dated 26th December, 2023 is restored to the file of Respondent No.2, to be reconsidered afresh in the light of Rule 41A of the Rules of 1981 and all the clauses set out therein. Needless to state, he would independently decide the said proposal on its own merits.*

12. *We mention that we have not expressed any opinion as regards the merits of the proposal.*

13. *If there are any deficiencies in the proposal, the concerned Officer is at liberty to address a communication to the Management within 21 days and point out the deficiencies, in one stroke. Once such deficiencies are pointed out, the Management shall cure the deficiencies, within 15 days and resubmit the proposal. The said proposal would be decided on its own merits, within a period of 30 days thereafter.”*

2. Pursuant to the above, the notice in the Suo Motu Contempt Petition was served on Shri. Mahesh Jagannath Chothe, Deputy Director of Education, Kolhapur Region, Kolhapur.

3. We have perused the affidavit tendered by the Accused/Contemnor dated 9th April, 2025. An unconditional apology has been tendered. It is stated that he has committed a mistake in not understanding the view taken by this Court in *Friends Social Circle Akola and others V/s. State of Maharashtra and others*¹. He has expressed remorse and regret and has assured that henceforth no act of such nature would be committed, which would give rise to a contempt proceeding.

4. We are aware of several orders passed by this Court in relation to the same officer and having imposed nominal costs only to cause deterrence, on several occasions. However, the case before us as is glaring, as is evident from our order dated 4th April, 2025, reproduced above. This was a fit case for proceeding with the contempt proceedings against the said officer.

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5. The learned Sr. Advocate, Mr.Desai has made a valiant attempt to convince us that the officer should be pardoned. The facts before us are such that it would have been difficult to believe that the said officer is remorseful or regretful, knowing his continued behaviour. However, considering the observations of this Court in Contempt Petition No.577 of 2024, dated 6th August, 2024 (*Swarajsingh Shivpalsingh Parihar V/s. Dilip Dattatray Walse Patil (Minister Of Co-Op. Dept Mantralaya Mumbai, Through Its Secretary)*), wherein this Court has recorded that imposing punishment of imprisonment is the last resort and to be ordered only when this Court is convinced that no further chance deserves to be granted or leniency deserve to be shown.

6. Mr.Desai has tendered one more affidavit dated 25th April, 2025 (4 Pages), which is marked as 'X' for identification. Once again, the Accused/Contemnor has sought pardon. He has assured that henceforth he will ensure that no order of the Court or law laid down by the Court would be overlooked. He has volunteered to deposit cost of Rs.75,000/-.

7. The learned Sr. Advocate, Mr. Bandiwadekar, who had

appeared for the Original Petitioner, submits that litigants *per se* do not have any grudge or grievance against the officers. However, when officers start behaving highhandedly and pass orders as per their fancies, causing an irreparable loss, grave prejudice and manifest inconvenience, that the litigant has to knock the doors of the Court. He submits on instructions that the statement of the Accused/Contemnor made in Paragraph No.4 of the affidavit 'X', be accepted. He further submits that the amount of costs may be donated by this Court to a noble cause.

8. Considering the above and believing in the policy of reformation, that we are pardoning the Accused/Contemnor. His statements have been recorded and he is depositing cost of Rs.75,000/- from his salary bank account, which he shall do so within 30 days from today. The apology is accepted and the **Suo Motu Contempt Petition is purged.**

9. By recording the statement of the Original Petitioner that the amount be donated for a noble cause, we direct the Registry of this Court to transfer the said amount in the portions indicated, to the following entities :-

Sr. No.	Following Entities	Cost Amount
1.	Mahila Samajik Samata Parishad, Phaltan, District Satara. Account No. : 130510100010738 Bank Name : Bank of India Branch : Phaltan, District Satara IFSC Code : BKID0001305 PAN No. : AABTM6287G	Rs.30,000/-
2.	Children Aid Society, Mumbai Account No. : 02370100005612 Bank Name : UCO BANK Branch : Matunga IFSC : UCBA0000237	Rs.15,000/-
3.	In Defense of Animals Account No.: 04060100019102 Bank Name : Bank of Baroda Branch : Chandavarkar Road Branch, Matunga. IFSC : BARB0CHANDA ('0' is a digit not alphabet) MICR No. : 400012046	Rs.15,000/-
4.	Bar Council of Maharashtra and Goa Account No. : 10996711937 Bank Name : State Bank of India Branch : Mumbai Main Branch IFSC Code : SBIN0000300	Rs.15,000/-

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)