



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 7422 2024

shwar Sadashiv Jaybhaye and another Vs. Education Officer (Sec.), Zilla Parishad, Washim)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P.S. Patil, Advocate for petitioners.

Mr. A.S. Fulzele, Addl. GP for respondent /State.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATED : 15-01-2025

Heard. Rule. Rule is made returnable forthwith.

2. Mr. Fulzele, the learned AGP waives notice on behalf of the respondent.

3. Petition questions the communication dated 12.2.2024 whereby the proposal for transfer of the petitioner from non aided to aided institution has been turned down on the basis of the Government Resolution dated 1.12.2022. The learned Counsel for petitioners invites our attention to the judgment of this Court in Writ Petition No. 8215/2022 (Friends Social Circle, Akola and others Vs. State of Maharashtra and Others) along with connected petitions decided on 21.7.2023, in which it has been held that the Government Resolution dated 1.12.2022 to the extent it stays the operation of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 is set aside for want of power with respondent No. 1 to do so. The learned Counsel therefore submits, that the impugned communication dated 12.2.2024, which relies upon the Government Resolution dated 1.12.2022 to deny approval to

the proposal for transfer cannot be sustained.

4. Mr. Fulzele, the learned Addl.GP does not dispute that the Government Resolution dated 1.12.2022 has been set aside by this Court by its judgment dated. 21.7.2023 as indicated above. In that view of the matter, the impugned communication dated 12.2.2024 (page 26) cannot be sustained and is hereby quashed and set aside and the matter is remitted back to respondents to decide the proposal for transfer in terms of the law as applicable. Same shall be done within a period of three weeks from today. The petition stands disposed of in the above terms.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

Belkhede