



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

WRIT PETITION NO. 4882 OF 2024

1. Mahila Sewa Mandal through its
Secretary, Sewagram Road, Wardha,
Tah. & Dist. Wardha.
2. Sushil Himmatsinghka Uchha Madhyamik
Vidyalaya through its Principal,
Sewagram Road, Wardha, Tah. & Dist.
Wardha.
3. Shri Chakradhar Ruprao Mathankar,
Aged 47 years, Occ. Service,
R/o. Shikshak Colony, Wardha,
Tah. & Dist. Wardha.

... PETITIONERS

// VERSUS //

1. State of Maharashtra through
Secretary, Department of Education,
Mantralaya, Mumbai-32.
2. The Deputy Director of Education,
Nagpur Division, Nagpur-440001.

... RESPONDENTS

Shri P. S. Kadam, Advocate for petitioners.
Ms. H. N. Jaipurkar, AGP for respondents.

**CORAM :- SMT. M. S. JAWALKAR &
M. W. CHANDWANI, JJ.**

DATED :- 17.12.2025

ORAL JUDGMENT (PER: M. W. CHANDWANI, J.):-

Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned counsels for the parties.

3. The petition challenges the order/communication dated 19.07.2024 issued by respondent no. 2- Deputy Director of Education, Nagpur Division, Nagpur rejecting the transfer of petitioner no. 3- Chakradhar Ruprao Mathankar from Ratnibai Vidyalaya, Wardha which is run by the petitioner no. 1- Society to the petitioner no. 2- School. The said proposal was rejected on the ground that transfer cannot be made from a Secondary School to a Higher Secondary School as per the Government Resolution dated 01.04.2021.

4. We have heard the learned counsel for the petitioners as well as the learned AGP for the respondents/State. The learned counsel for the petitioners placed reliance on the decision of this Court in the case of *Ku. Manda Udebhanji Choudhari Vs. State of Maharashtra and others (Writ Petition No. 301/2023, decided on 26.06.2023)*. Since, the transferee school and the transferor school are receiving 100% grant therefore, we are of the opinion that the case of the petitioner is covered by the above mentioned decision wherein, it has been observed that the transfer from a school receiving 100% grant to a school receiving 100% grant is governed by Rule 41(5) and not by Rule 41A(1)(d) of the Maharashtra Employees of Private

Schools (Conditions of Service) Rules, 1981 (for short, “the Rules of 1981”).

5. On the other hand, reliance is placed by the learned AGP on the decision of Aurangabad Bench of this Court in the case of *Shubhangi D/o. Vikramrao Deshmukh Vs. The State of Maharashtra and others (Writ Petition No. 10207/2021, decided on 17.04.2024)*. However, this does not help the cause of the learned AGP for the simple reason that in the said case, the transfer was done from an unaided school to an aided school, which is not the case here. Therefore, the reliance placed on the said decision by the learned AGP is misconceived.

6. Therefore, we allow the petition by setting aside the order dated 19.07.2024 passed by the respondent no. 2- Deputy Director of Education, Nagpur Division, Nagpur.

7. Respondent no. 2- the Deputy Director of Education, Nagpur Division, Nagpur is directed to reconsider the proposal dated 01.03.2024 submitted by the petitioner no. 1- Society seeking the transfer of the petitioner no. 3 to the petitioner no. 2- school if it is found that the transferor school as well transferee school are receiving

grant-in-aid by taking into consideration the provision of Rule 41(5) of the Rules of 1981.

8. The decision shall be taken by respondent no. 2 after granting an opportunity of being heard to the petitioners. The petitioners or their representatives shall remain present before the respondent no. 2- Deputy Director of Education, Nagpur Division, Nagpur on 30.12.2025 at 11:00 am.

9. Rule made absolute in the above-said terms. No costs.

(M. W. CHANDWANI, J.)

(SMT. M. S. JAWALKAR, J.)