



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

WRIT PETITION NO.7250/2024

- PETITIONERS :**
1. Sanjay Babarao Sanap
Age – 37 Yrs., Occ. Service,
R/o Weltura, Jaipur, Hingoli,
Tq. & Dist. Hingoli.
 2. Dnyaneshwar Secondary and Higher
Secondary School, Mandwa, through
its Headmaster, Office at Mandwa,
Tq. Risod, Dist. Washim.

...VERSUS...

RESPONDENT : Education Officer (Secondary),
Zilla Parishad, Washim, Tq. & Dist. Wadhim.

Mr. S.N., Chikhale, Advocate for petitioners
Mr. J.Y. Ghurde, AGP for respondent

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

DATE : 05/05/2025

ORAL JUDGMENT : (PER : AVINASH G. GHAROTE, J.)

1. Heard. Rule. Rule made returnable forthwith. Assistant Government Pleader Mr. J.Y. Ghurde waives service of notice for the respondent, on merits. Heard finally with the consent of the learned counsels for the parties.

2. The petition questions the communication dated 05/02/2024 (pg.27) by which the proposal for transfer of the petitioner No.1, from a non-grant to grant-in-aid section has been

rejected on the ground that in terms of Circular, dated 01/12/2022 there is a stay.

3. The position in this regard has already been considered by the learned Division Bench of this Court in *Writ Petition No.8215/2022 (Friends Social Circle, Akola and others Vs. State of Maharashtra and others) decided on 21/07/2023*, in which, it has been held that the aforesaid Circular to the extent it stays the operation of Rule 41 (A) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 is set aside for want of power with the respondent No.1.

4. That being the position, the ground for refusal of the approval on this count would not survive. We, therefore, quash and set aside the impugned communication dated 05/02/2024 and direct the respondent to consider the proposal for approval, in case there is no other impediment in law. The same shall be done within a period of four weeks from today.

5. Rule is made absolute in the aforesaid terms. No order as to costs.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)