IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8822 OF 2025

Savita Gangaram Shelke ...Petitioner

Versus

The State of Maharashtra and Others ...Respondents

Mr. Prashant Bhavake, for the Petitioner.
Mr. R. P. Kadam, 'B' Panel Counsel, for the Respondents-State.
Mr. Urkarsh Desai, for the Respondent Nos.6 & 7.

Coram : Sharmila U. Deshmukh & Neeraj P. Dhote, JJ.

Date : October 08, 2026.

P. C. :

1. By the present petition, the challenge is to the impugned order dated 3rd April 2025 premised on the Government Resolution of 1st December 2022 rejecting the proposal seeking approval to the transfer of the Petitioner from the unaided post to the aided post.

2. We have requested Mr. Kadam to appear on behalf of Respondent No.5-Education Officer (Primary), Zilla Parishad, Satara, as the issue stands covered and instructions on the factual aspects are not required to be taken. Mr. Kadam has graciously agreed to appear for Respondent No. 5.

3. Briefly stated, the facts of the case are that the Petitioner came to be appointed as an 'Assistant Teacher' on an unaided post on 26th January 2013. The Education Officer granted the approval to the Petitioner's appointment on 29th September 2014. On 31st July 2024, an Assistant Teacher working on the aided post superannuated and the Petitioner came to be transferred from unaided post to the aided post of Assistant Teacher on 1st August 2024. The proposal, which was sent seeking approval to the transfer of the Petitioner, came to be rejected on the ground of the Government Resolution of 1st December 2022.

4. Learned counsel appearing for the Petitioner would submit that the Government Resolution dated 1st December 2022 stayed the provisions of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (for short, '**Rules of 1981**'), which came to be considered by the Hon'ble Division Bench of this Court in the case of ***Friends Social Circle, Akola & Ors. v. State of Maharashtra & Anr.***[1] He submits that this Court quashed and set aside the Circular dated 1st December 2022 staying the operation of Rule 41A of the Rules of 1981 and though the decision has been delivered on 21st July 2023, the Education Officer has not considered the same and applied the Government Circular for the purpose of rejecting the proposal.

5. The Rules of 1981 came to be amended and Rule 41A was

1 Writ Petition No.8215 of 2022 & connected petitions, dtd. 21st July 2023.

inserted governing the conditions for transfer of teachers from unaided to partially aided or aided school or division and provided for such transfers by the Management, subject to the conditions stated therein. On 1st December 2022, the Government Resolution came to be issued by the School Education and Sports Department stating that there are certain irregularities in the matter of transfer of teachers in a manner contrary to the Rule 41A as well as the Government Resolution dated 1st April 2021. The Circular came to be challenged before the Division Bench of this Court in the case of ***Friends Social Circle, Akola*** (supra). The Hon'ble Division Bench opined that as long as Rule 41A continues on the statute book, its operation cannot be stayed by issuing a Circular as has been done on 1st December 2022. The Hon'ble Division Bench set aside the Circular dated 1st December 2022 to the extent, it stays the operation of Rule 41A of the Rules of 1981. Considering that the decision was delivered in July 2023, the Education Officer could not have rejected the proposal on 3rd April 2025 by relying upon the said Circular.

6. In light of the above, the impugned order passed by the Education Officer is hereby quashed and set aside. The proposal is remitted to the file of the Education Officer to be considered afresh.

7. As the Education Officer has rejected the same only on the

ground of the Circular of 1st December 2022, the Education Officer to reconsider the proposal and take a fresh decision within a period of six weeks from today.

8. The Writ Petition is disposed of accordingly.

[Neeraj P. Dhote, J.] **[Sharmila U. Deshmukh, J.]**

RAJU DATTATRAYA GAIKWAD
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