



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

WRIT PETITION NO. 3387 OF 2026

[Shahbabu Education Society, Patur, District Akola through its Secretary Mr. Syed Ishaque Syed Nabi and ors. **vs.** State of Maharashtra, through its Principal Secretary, Department of School Education and ors.]

Office Notes, Office Memoranda
of Coram, Appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. S. N. Tapadia, Advocate for the petitioners
Mr. S. B. Bissa, A.G.P for the State

CORAM : ANIL L. PANSARE AND
RAJNISH R. VYAS, JJ.

DATE : 08-06-2026.

Heard.

Petitioner no. 3 is working as Assistant Teacher in petitioner no. 2 – school run by petitioner no. 1. Petitioner no. 3 was earlier working in Sir Sayyed Urdu High School, Akola run by petitioner no. 1. The earlier school was not admitted to grant-in-aid whereas petitioner no. 2 – school is admitted to grant. Upon accruing vacancy, petitioner no. 2 – school thought it proper to transfer petitioner no. 3 in petitioner no. 2 – school.

On 17-8-2022, petitioner no. 1 submitted proposal to respondent no. 4 seeking approval to the transfer. Respondent no. 4 did not take decision and, therefore, petitioners approached respondent no. 3 seeking appropriate directions. Respondent no. 3 found

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merit in the case put forth by the petitioners and accordingly directed respondent no. 4 to grant approval to the transfer of petitioner no.3 from Sir Syed Urdu High School, Akola to petitioner no. 2 – school. Order to that effect was passed on 19-6-2024.

Respondent no. 4 failed to act in terms of said order, and, therefore, petitioners approached this Court seeking directions against respondent no. 4 to act in terms of order passed by respondent no. 3.

On 11-2-2026, the Division Bench of this court in Writ Petition No. 600/2025 considered the aforesaid case and directed respondent no. 4 to comply with order passed by respondent no. 3 within a period of two weeks.

Respondent no. 4, however, refused to grant approval on the ground that on 13-11-2025, Rule 41(A) of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 was amended and Commissioner of Education, Maharashtra State, Pune is empowered to grant approval to the transfer of the employees from unaided school to aided school.

The argument is that the amendment has no retrospective effect and, therefore, the order passed is apparently illegal.

For the time being, issue notice to respondent nos. 1 to 4, returnable in two weeks.

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In the meantime, respondent no. 4 shall take corrective measures, if otherwise, there is no legal impediment.

Learned Assistant Government Pleader waives notice for the State/respondent nos. 1 to 4.

(RAJNISH R. VYAS, J.)

(ANIL L. PANSARE, J.)

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