

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

WRIT PETITION NO. 2004 OF 2014

(Late Hirabai Gaikwad Education Society & Anr. vs. The State of Maharashtra thr. its Secretary,
Department of School Education & Ors.)

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

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
A.P. BHANGALE, JJ.
JANUARY 13, 2015.**

Heard Shri Khedkar, learned counsel for the petitioner, Shri Kankale, learned AGP for respondent No.1 and Shri Chawhan, Advocate holding for Shri Kaptan, learned Senior Advocate for respondent Nos. 3 & 4.

We have perused the orders of the Hon'ble Apex Court dated 10.01.2014 in CC No.22357 of 2012. The said order reads as under :

“Delay condoned.

The special leave petition is dismissed.

However, the petitioners may approach the High Court for the relief that is sought from this Court regarding the request to file a representation before the Competent Authority as the impugned order do not reflect whether such request had at all made before the High Court and was considered earlier.”

The order dated 10.05.2012 which was carried before the Hon'ble Apex Court was passed by this Bench only in Writ Petition No. 2273 of 2012. The said order reads as under :

“1. *Learned Senior Advocate assisted by Ms. R.D. Raskar for petitioners were heard on on 8.5.2012 and in the light of views taken by this Court in Writ Petition No. 951 of 2012 dismissed on 24.4.2012, the matter was adjourned to today to enable the counsel to obtain appropriate instructions.*

2. *Learned AGP appearing for respondent no. 1 states that issue is already concluded by this Court while dismissing WP No. 951 of 2012.*

4. *We find that the present controversy is covered by our judgment and order dated 24.4.2012 delivered in Writ Petition No.951 of 2012. Hence, for reasons recorded therein, present writ petition is also rejected. No costs.*

5. *Petitioners have also prayed for protecting 25 students who have been admitted to D. Ed. Course for the academic session 2011-12. We have noted relevant development in our judgment rendered in WP No.951 of 2012 and for reasons recorded therein, it is obvious that no such interim protection can be given. Prayer is rejected.”*

Thereafter a review was sought before this

Bench by moving MCA No. 737 of 2012 and it was also disposed of on 03.09.2012 by following order :

“1. Heard. Entire controversy was considered by this Court while deciding Writ Petition No. 951 of 2012 on 20th April 2012. That order has been applied to Writ Petition No. 2273 of 2012. At that stage, no steps were taken to distinguish the earlier order. Now, the contention is, subsequently applicant College had done necessary compliance.

2. After hearing Mr. Chandurkar, learned counsel for applicants; Mr. Fulzele, learned AGP for respondents no. 1 and 3 and Mr. Kaptan, learned counsel for respondents no. 3 & 4, we are not in a position to hold that the order of Honourable Apex Court passed on 19.7.2010 has the effect of setting aside the order of the High Court which was against the petitioners or of restoring the recognition which was cancelled.

3. No case is, therefore, made out for review. Application rejected.”

The Hon'ble Apex Court has granted leave to the petitioners to approach this Court for the relief of filing a representation before the the Competent Authority. Shri Chowhan, learned counsel has pointed out that without approaching this Court, a representation was filed directly on 15.04.2014 and without seeking any orders upon it, present writ petition

is filed. He, therefore, attempts to demonstrate that the course of action as allowed by the order of the Hon'ble Apex Court has been defeated.

Shri Khedkar, learned counsel has invited attention to merits of the controversy. He submits that proposal of the petitioners was rejected only on account of an erroneous finding that the petitioners did not have necessary land.

However, we are not inclined to go into that controversy. The orders passed by this Court on 10.05.2012 or on 03.09.2012 do not in any way affect the leave to file representation, if it is granted to the petitioners.

In this situation, we, upon oral request made by Shri Khedkar, learned counsel, as the Bench is same, accept present writ petition as application in said Writ Petition No. 2273 of 2012. The petitioners are permitted to file representation as sought for by them before the Hon'ble Apex Court within three weeks from today. If such a representation is made, the Competent Authority shall consider it in accordance with law in the light of earlier orders of this this Court which have become final and in its own wisdom, within next eight weeks.

With these directions, present writ petition/application is disposed of. No order as to costs.

JUDGE

JUDGE