

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5120 OF 2018

The State of Maharashtra & Ors.	...Petitioners
Versus	
Girijashankar Raghunath Popalghat & Anr.	...Respondents

Mr. C. P. Yadav – AGP for Petitioners - State.
Mr. Atul Damle – Senior Advocate i/b. Mohan Tekavde & Mrs.
Swati Tekavde for Respondent No. 1.

**CORAM: SMT. V. K. TAHILRAMANI, Acting C. J. &
M. S. SONAK, J.**

DATE : 21 JUNE 2018

P.C. :

1] Mr. Yadav, the learned AGP for the Petitioners – State, on the basis of instructions, states that the directions in the judgment and order dated 23rd June 2017 in Original Application No. 274 of 2017, which is impugned in the present petition, have been complied with. In compliance, the remark of A+ Outstanding, has been restored to the respondent no. 1. On instructions, he further states that the Petitioners State has no intention of seriously questioning this restoration of grading. However, Mr. Yadav,

the learned AGP points out that there are certain observations and issues in the impugned judgment and order, which, if treated as a precedent, might severally prejudice the interests of the State, e.g., he points out that in the present case, representation for reviewing the gradings in the ACRs was made after considerable delay. He points out that as per the existing GRs, there is no requirement of communicating remarks which are not adverse. He points out that there are other issues as well and therefore, either this petition may be entertained or it may be clarified that the impugned order be not treated as a precedent.

2] Since, the respondent no. 1 has secured the relief in terms of the impugned judgment and order and since there is no proposal to review such relief, Mr. Damle, the learned Senior Advocate for the respondent no. 1 leaves the matter for the determination of this Court.

3] Taking into consideration the aforesaid, we do not deem it necessary to entertain the present petition. However, such no entertainment, may not be taken as

approval or for that matter disapproval of the view taken by the MAT in the impugned judgment and order. Since, it will not be appropriate to decide mere academic issues, we are not entertaining the present petition. Further, we clarify that the issues said to have been decided by the impugned judgment and order are left open for examination in an appropriate case. This will to a certain extent address the concerns expressed by the learned AGP on behalf of the petitioners State.

4] With the aforesaid observations, this petition is disposed of. There shall be no order as to costs.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)

CHANDKA