

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

WRIT PETITION NO.4463 OF 2018

State of Maharashtra
through its Additional Chief Secretary and ors.... **Petitioners**
V/s.

Vijay s/o Vishnu Bondar and ors. ... **Respondents**

**WITH
WRIT PETITION NO.2266 OF 2018**

The State of Maharashtra
through its Additional Chief Secretary and ors.... **Petitioners**
V/s.

Chetan s/o Ramakant Jagtap and ors. ... **Respondents**

Mr.C.P.Yadav, AGP for the Petitioners/State.

**CORAM : A.S.OKA & M.S.SONAK, JJ.
DATE : AUGUST 21, 2018.**

P.C. :

1. These two petitions shall be separated from the other matters on board (Writ Petition Nos. 5065 of 2018, 6358 of 2016 and 8558 of 2016). In these two petitions, the petitioners-the State of Maharashtra and others have challenged interim order dated 5th May 2016, passed by the Maharashtra Administrative

Tribunal. The main challenge is based on the law laid down by the Apex Court in the case of **Secretary, State of Karnataka and ors. Vs. Umadevi and ors.**¹ Reliance is also placed on subsequent order passed by a Decision Bench of this Court at Nagpur.

2. From the impugned order, it appears that attention of the Tribunal was not invited to the decision of the Apex court in the case of Umadevi (supra). The State Government has also relied upon the order dated 27th April 2017 passed by a Division Bench of this Court at Nagpur.

3. More appropriate remedy for the petitioners will be to apply to the Maharashtra Administrative Tribunal for vacating interim order dated 5th May 2016. We are sure that if such an application is made, the Tribunal will give necessary priority to the hearing of the application. In the event such application made by the petitioners is not allowed, it will be always open for the petitioners to file a fresh petition in this Court for challenging the order dated 5th May 2016, as well as the order which may be passed on the application which may be made by

1 (2006)4 Supreme Court Cases 1

the petitioners. Subject to what is observed above, the Writ Petitions are disposed of. All contentions of the parties are kept open. The parties to act upon an authenticated copy of this order.

(M.S.SONAK, J.)

(A.S.OKA, J.)

.....

Priya
Rajesh
Soparkar

Digitally signed
by Priya Rajesh
Soparkar

Date: 2018.08.30
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