

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

M. C. A. NO. 59/2019 (For Review)

IN

WRIT PETITION NO. 6092/2017 (D)

Ku. Mandakini Mahadeorao Takarkhede,

..VS..

Shri Rajendra R. Hadole and Ors.,

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

Court's or Judge's orders

Shri A. C. Dharmadhikari, Advocate for the applicant.
Shri A. M. Gordey, Sr. Advocate for respondent No.1.
Shri P. A. Kadu, Advocate for respondent No.2.
Shri A. V. Palshikar, AGP for the respondent No.3.

CORAM : SUNIL B. SHUKRE AND
S. M. MODAK, JJ.

DATED : 17th January, 2020

Heard.

By this application, the order passed by this
Court dated 22.12.2018 has been sought to be reviewed.

The order passed on 22.12.2018 itself was
based upon the prima facie opinion expressed by this
Court in its order passed on 19.10.2018. However, no
final opinion was expressed by this Court on 19.10.2018,
as it appears from the record, nobody was present for the
petitioner on that day and therefore, the petition was
deferred to 02.11.2018 for passing of further order. The
petition was listed on board for hearing on 02.11.2018,
but it was adjourned by consent to a date after Diwali

Vacation. The petition then came to be listed on board for hearing on 21.12.2018. On 21.12.2018, learned counsel for the petitioner was present and he sought an adjournment on the ground that some fresh instructions were given to him by Shri Praveen Patil, Advocate who was not then present in the Court. Accordingly, the matter was posted on board for hearing on 22.12.2018.

On 22.12.2018, learned counsel for the petitioner was absent and it is informed now by Shri Dharmadhikari learned counsel that his absence on 22.12.2018 was on account of his need to attend to his ailing colleague, who was then hospitalized. However, this information was not passed on to this Court by anybody holding for Shri Dharmadhikari.

The question would be, whether the order passed on 22.12.2018 has got anything to do with the absence of the learned counsel for the petitioner and therefore, whether or not it has caused any grave prejudice to the case of the petitioner. In our opinion, the answer has to be given in the negative.

While it is true that the learned counsel for the petitioner was not present before this Court on 22.12.2018, and it may also be true that his absence was for a genuine difficulty. But, as found by us earlier, his such absence has not resulted in causing any prejudice to the case of the petitioner. As noted by us earlier, our order passed on 22.12.2018 itself is based upon the

prima facie opinion expressed by this Court on 19.10.2018. The prima facie opinion was to the effect that owing to dismissal of the petitioner from service during pendency of petition, the petition has been rendered infructuous, if one considers the final relief claimed in the petition. The final relief claimed is that of issuance of a direction to respondent No.1 to forward the proposal for appointment of the petitioner as regular Head Mistress of Mahatma Phule Vidhayalay. This direction was sought to be issued to respondent No.1 for his forwarding of the proposal to respondent No.3. As the service of the petitioner had come to an end during the pendency of the petition, it was obvious that the petition for the relief which was claimed, had become infructuous. But, in order to verify this fact from the petitioner, instead of expressing the final opinion, this Court only prima facie found the position to be so. When the petition was finally disposed of as infructuous by virtue of the order dated 22.12.2018, the position regarding dismissal of the petitioner from service had not been changed. Even today, admittedly, status of the petitioner is that of a dismissed employee as it was there on 22.12.2018. This is how we have found that the absence of the learned counsel for the petitioner before this Court on 22.12.2018 has not caused any prejudice to her and the position which obtained on 19.12.2018, in fact, was also there on 22.12.2018.

Today, the learned counsel for the respondent No.2 has filed on record an additional affidavit bringing

on record some subsequent developments. The additional affidavit is taken on record. Learned counsel for the respondent No.2 submits that there has been change in the office bearers of the managing committee and the new committee has forwarded proposal for appointment of the petitioner as Head Mistress of the school to respondent No.3, and that proposal is pending. This is a subsequent development and if there is anything to be done, it would be for the respective parties to do so.

In the circumstances, we find no merit in the review application. The review application stands dismissed. No costs.

JUDGE

JUDGE

Kirtak