

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5728 OF 2019

Shri Haridas Digambar Kokate & Anr. .. Petitioners

v/s.

The State of Maharashtra, Through the
Secretary, School Education Department,
Mantralaya, Mumbai & Ors. .. Respondents

....

Mr. Y.B. Lengare, for the Petitioner.

Mr. V.M. Mali-AGP, for Respondent Nos. 1 and 2.

Mr. Vijay Killedar, for Respondent No.4.

Mr. Ashish P. Pawar, for Respondent Nos. 5 and 6.

....

**CORAM: S.C. GUPTE &
SURENDRA P. TAVADE, JJ.**

DATE : 11 MARCH, 2021.

PC:-

. Heard learned Counsel for the Petitioners and learned Counsel for Respondent No.4-Administrative Officer, who has to show cause mainly to the present petition. Rule. Rule taken up for hearing forthwith by consent of Counsel.

2. This petition challenges an order passed by Respondent No.4 on 22/23 October 2018 refusing to accept the proposal submitted by the school management (Respondent No.5) for approval to the appointment of the Petitioners as Shikshan Sevaks in the vacant aided posts of Hindi

Medium Primary Section of Respondent No.6 School. The proposal submitted by the school management was not accepted by Respondent No.4, purportedly on the ground that cancellation of the status of Respondent No.5 as a minority institution has been subject matter of challenge in a pending writ petition before this Court (Writ Petition No.6576 of 2017).

3. It cannot possibly be disputed that by order passed by this Court on 26 July 2017, in Writ Petition No.6576 of 2017, this Court has passed an interim order directing the Respondents not to take coercive steps on the basis of the impugned orders cancelling the status of Respondent No.5 herein as minority institution. This order has since been continued by the Supreme Court in its order passed on 7 February 2020 in Special Leave to Appeal (C) No.3036 of 2019. Continuation of the interim order obviously implies that the Respondent-State cannot act on the basis that Respondent No.5 has ceased to be a minority institute. If that is so, an immediate corollary is that the G.R. of 20 June 2018, which excepts minority institutions from its application, does not apply to Respondent No.5 herein. The proposal submitted by Respondent No.5 for approval to the appointments of the Petitioners, thus, cannot be rejected on the ground of breach of the G.R. of 20 June 2018. Doing so would amount to acting on the impugned order of cancellation of the minority status of Respondent No.5 to its prejudice.

4. Rule is, accordingly, made absolute by directing Respondent No.4 to accept the proposals for approval to the appointment of the Petitioners as Shikshan Sevaks in Respondent No.6 School and take an

appropriate decision on their application without reference to the G.R. of 20 June 2018 in accordance with law and in a time bound manner and preferably within a period of six weeks from today. The petition is disposed of in the above terms.

(SURENDRA P. TAVADE, J.)

(S.C. GUPTE, J.)