

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
2 WRIT PETITION NO. 5020 OF 2018
AND
WRIT PETITION NO. 11915 OF 2018
WRIT PETITION NO. 11909 OF 2018
TUSHAR SUBHASH GADAKH AND OTHERS
VS
THE STATE OF MAHARASHTRA AND OTHERS

Ms. Pratibha J. Bharad, Advocate for the petitioners

Mr. S. P. Tiwari, AGP for the respondents/State

Mr. J. R. Patil, Advocate for respondent No.3

Mr. V. D. Hon, Senior Advocate i/b Mr. A. V. Hon, Advocate for the respondent Nos. 4 and 5

Mr. K. C. Sant, Advocate for respondent No.3 in wp/11915/18

Mr. Anandsingh Bayas, Advocate for the respondent in wp/11909/18

Mr. S. H. Tripathi, Advocate h/f Mr. P. S. Shendurnikar, Advocate for respondent No.2 in wp/11909/18

CORAM : RAVINDRA V. GHUGE &
ANIL L. PANSARE, JJ.

DATE : 27th June, 2022

P. C.

1. The issue raised before this court seems to be highly disputed. The contention is

that the management has charged the students a particular quantum of fees since they are repeaters. According to the petitioners, they have not availed of the facilities available with the college for the repeating students studying in the said subject. An affidavit-in-reply to that extent is filed on 27-06-2022 through the Principal of the college setting out the reasons and circumstances for demanding certain quantum of fees as mentioned in paragraph No.12.

2. The learned advocate for the petitioners/applicants relied upon paragraph Nos. 7 to 11 of the order dated 06-03-2019 passed by this court in similar set of circumstances in writ petition No. 2601/2018 filed by Apurva Pradip Shirude and others Vs State of Maharashtra alongwith a group of connected matters, which

read as under:-

"7. Upon perusal of the affidavit filed by the Fees Regulating Authority and Item Nos. 6(a) and 6(b) as referred to supra we do not find consistency in the same. The Shikshan Shulka Samiti has to consider the record and the grievance of the students and thereafter arrive at a conclusion as to whether tuition fees would be leviable by the college upon the repeater students for particular subject. For that purpose it would be necessary for it to scan the record.

8. In light of the above, we pass the following order.

ORDER

i. The Fees Regulating Authority shall consider the grievances of petitioners and after going through the record, so also considering the stand of the Institution take decision with regard to the right of the Institution to charge tuition with regard to the failed subjects from the repeater students. The endeavour shall be made to take said decision expeditiously as it is submitted that this is recurring issue. The petitioners may approach the Fees Regulating Authority on 25-03-2019. The Institution may also remain present before the Fees Regulating Authority on 25-03-2019 and are entitled to file its

record. If it is possible the Fees Regulating Authority may take decision within a period of three months from the date of their appearance.

9. Till the decision is taken by the Fees Regulating Authority the Institution may not refuse to accept the examination form from the students only on the ground of repeaters tuition fees. The parties naturally would be bound by the orders passed by the Shikshan Shulk Samiti. The petitioners shall give undertaking to the Institution that if Shikshan Shulka Samiti decides against them, then they would pay the fees.

10. Writ petitions are disposed of. No costs.

11. In view of disposal of writ petitions, civil application also stand disposed of."

3. Considering the above, the learned advocate for the petitioners submits on instructions that the petitioners desire to withdraw these petitions so as to approach the Shikshan Shulka Samiti and raise the issue of

illegal charging of tuition fees for repeaters.

4. Akin to the order dated 06-03-2019 reproduced as above, these petitions are disposed off with liberty to the petitioners to approach the Shikshan Shulka Samiti. Needless to state that, the decision of the Shikshan Shulka Samiti would bind them and they would have to pay the fees as is concluded by this court in paragraph No.9 reproduced above. As such, pending civil applications would not survive and stand disposed off.

5. In the event these petitioners approach the Shikshan Shulka Samiti on or before 05-07-2022, considering the urgency involved, we expect the Shikshan Shulka Samiti to hear all the parties and pass the order expeditiously and

preferably on or before 16-07-2022.

6. All the contentions of the parties are kept open.

[ANIL L. PANSARE, J.] [RAVINDRA V. GHUGE, J.]

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