

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 514 OF 2020
IN
LETTERS PATENT APPEAL NO. 209 OF 2009

President Samajik Sanskrutik Congress	...Applicant
<i>In the matter between</i>	
Sadashiv Maruti Sangolkar	...Appellant
<i>Versus</i>	
President Samajik Sanskrutik Congress & Ors	...Respondents

Mr Sarang Gundajwar, for the Applicant.
Mr Vivek Rane, i/b Ashwin Kapadnis, for the Respondents.
Ms Shruti Vyas, AGP, for Respondent-State.

CORAM G.S. Patel &
M.G. Sewlikar, JJ.
DATED: 9th June 2022

PC:-

1. In an identical matter, in Interim Application No. 513 of 2020 in Letters Patent Appeal No. 208 of 2009 in Writ Petition No. 7779 of 2008, we made the following order on 7th June 2022.

“1. The Interim Application, in our view, is misconceived. It seeks that the order of 5th December 2019 allowing Letters Patent Appeal be set aside. In the Letters Patent Appeal, the present Applicant was the 1st Respondent. It did not appear on 5th December 2019.

ARUN
RAMCHNDRA
SANKPAL

Digitally signed by
ARUN
RAMCHNDRA
SANKPAL
Date: 2022.06.10
17:42:58 +0530

2. The memo of the IA asserts that the 5th December 2019 order was “*ex parte*”. In deed it was not. An *ex parte* order is one that is passed without notice to the opposite party. Here, the 1st Respondent did not appear despite service and notice. The order is therefore not *ex parte*. Unless, therefore, the 1st Respondent is able to show that it is prejudiced in some manner by the 5th December 2019 order, there is no possibility of recalling that order or of restoring the LPA to file.

3. By the order dated 5th December 2019 what the Division Bench did, and for complete and stated reasons, was to modify an earlier order dated 19th September 2008 passed by the School Tribunal at Solapur. The Division Bench awarded full back wages to the Appellant for the intervening period until his reinstatement. The direction in paragraph 10 was to the Ashokrao Desai Krishi Vidyalaya to pay back wages and, specifically, *not* to foist the joint liability on Samajik Sanskrutik Congress Maharashtra, the 1st Respondent, namely, the present Applicant before us.

4. It is therefore abundantly clear that the order dated 5th December 2019 has in fact protected the Applicant before us. No prejudice is or was caused to it even by the absence of the Applicant or its advocate.

5. There is no substance in the Interim Application. It is dismissed. No order as to costs.”

2. This Interim Application is on exactly the same footing. There is no difference whatsoever except as to the original writ petitioner. That can make no conceivable difference to the outcome. As we noted, the Division Bench order in question fully protects the Applicant.

3. Accordingly, the present IA is disposed of in the foregoing terms.

(M.G. Sewlikar, J)

(G. S. Patel, J)