

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 516 OF 2021

Shri Umashankar s/o Prahlad Namdeo,
aged about 46 years, Occ. Editor,
Nagpur Samachar Newspaper (RNI No. MAH/BIL/2006-18717),
Office Address : 7, Kamal Keshav Plaza,
Ramdaspath, Nagpur – 440010.

...PETITIONER

Versus

1. The State of Maharashtra,
through its Secretary,
Information and Public Relations Department,
Govt. of Maharashtra, Mantralay, Ground Floor,
Mumbai – 400032.
2. ~~Shri Dilip Pandharpatte,~~
Director General, Information and Public Relations Department,
Govt. of Maharashtra, Mantralay, Ground Floor,
Mumbai – 400032.
3. ~~Shri Hemraj Kashinath Bagul,~~
Director, Information and Public Relations,
Nagpur Division Commissioner Building,
Old Secretariat, Civil Lines, Nagpur – 440001.
4. The District Information Officer,
3rd Floor, Administrative Building – 1,
Civil Lines, Nagpur – 440001.
5. ~~Shri Mangesh B. Warkad,~~
The Examiner of Books and Publications,
Old Customs House, 2nd Floor,
Fort Mumbai – 400001.
6. ~~Smt. Shailaja Dandade Wagh,~~
Assistant Director o/o Director,
Information and Public Relations,
Nagpur Division Commissioner Building,
Old Secretariat, Civil Lines, Nagpur – 440001.

**Names of respondent Nos. 2, 3, 5 & 6 are
deleted as per Court's order dated 09/02/2021.**

...RESPONDENTS

Mr. D.B. Walthare, Advocate for the petitioner.
Mrs. K.R. Deshpande, A.G.P for respondent Nos. 1 and 4.

**CORAM : A.S. CHANDURKAR AND
PUSHPA V. GANEDIWALA, JJ.
DATED : JANUARY 03, 2022**

ORAL JUDGMENT (PER : PUSHPA V. GANEDIWALA, J.) :

Rule. Rule is made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. The challenge in the present Writ Petition is to the order dated 10/09/2020 passed by respondent No.5 – the Examiner of Books and Publications, whereby it has been informed to the petitioner that the petitioner's Evening Daily Newspaper – Nagpur Samachar, Nagpur, has been removed from the list of authorized newspapers, which are permitted for publishing the Government approved advertisements, i.e., classified advertisements as defined in the Government Resolution dated 08/08/2001.

3. Mr. Walthare, learned counsel for the petitioner, challenges the impugned order on two grounds; firstly,

respondent No.5 is not competent to pass the impugned order, and secondly, the reply to the show cause notice issued to the petitioner has not been considered by the Authority while passing the impugned order.

In support of his submissions, the learned counsel relied on the Government Resolution dated 20/12/2018, which is with regard to the Government Message Distribution Guidelines – 2018, whereby the Rules have been approved with effect from 01/01/2019. As per clause 4.3.11 of the said GR, the power to remove the recognition of the newspaper is given to the Director General, Information and Public Relation Department.

4. Mrs. Deshpande, learned A.G.P, filed reply-affidavit on behalf of respondent No.1, thereby opposed the petition, and submitted that after considering the reply of the petitioner, so also under the directions of respondent No.2 – Director General, Information and Public Relations Department, respondent No.5 passed the impugned order.

5. We have considered the submissions put forth on behalf of both the sides and perused the record.

6. At the outset, as per clause 4.3.11 of the aforesaid Government Resolution, the Director General is the Competent Authority to remove the recognition of any newspaper for the reasons as mentioned in the aforesaid guidelines after giving an opportunity of hearing to the management of the concerned newspaper.

7. A perusal of the impugned order dated 10/09/2020, at once, would reflect that the impugned order has been passed by respondent No.5 – the Examiner of Books and Publications, and not by respondent No.2 – Director General, Information and Public Relations Department. The respondent No.2 had no jurisdiction to take any decision in the matter in view of clause 4.3.11. The impugned order does not mention that the same has been passed under the directions of respondent No.2 – Director General, Information and Public Relations Department. Moreover, although the impugned order reflects that the explanation of the petitioner was called vide

office letter dated 22/06/2020 regarding the irregularity of the petitioner's newspaper, the points raised in the explanation by the petitioner were not considered while passing the impugned order. Similarly, the further reply dated 29/06/2020 has also not been considered while passing the impugned order. In our view, the impugned order came to be passed without jurisdiction and without following the due process of law.

8. Considering the aforesaid lacuna in the impugned order, in our considered opinion, the same is liable to be quashed and set-aside. Hence, we pass the following order :

ORDER

i. The order dated 10/09/2020 passed by respondent No.5 is set-aside. It is open for the respondents to take appropriate action if so advised in terms of the Government Resolution dated 20/12/2018 and especially clause 4.3.11. If any fresh action is taken, the Authority shall give due opportunity to the petitioner and consider the entire material on record. It is made clear that we have not examined the

grounds on which the impugned order has been passed. If respondent No.2 proposes to take any fresh action, the same shall be done expeditiously and preferably within a period of four months from today.

ii. Rule is made absolute in the aforesaid terms. No order as to costs.

JUDGE

JUDGE

Sumit