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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 1009 OF 2017

The State of Maharashtra and Ors.

... Petitioners

V/s.

Jaysingh Vithalrao Ghadge and Anr.

... Respondents

Mr. B.V. Samant, Addl. G.P. with Mr. R.P. Kadam, AGP for the
Petitioners

None for the Respondents

***CORAM : NITIN JAMDAR &
MANJUSHA DESHPANDE, JJ.***

DATE : 30 OCTOBER 2023

P.C. :-

Leave is granted to challenge the order dated 30 October 2014 in Original Application No. 1480 of 2009. Amendment to be carried out within a period of one week.

2 By this Petition filed on 14 September 2016, the Petitioner - State of Maharashtra challenges the order passed by the Maharashtra Administrative Tribunal dated 22 June 2015 declining to review the order dated 30 October 2014 in Original Application No. 1480 of 2009 and the order dated 30 October 2016 in Original Application No. 1480 of 2009.

3. The order dated 30 October 2014 disposing of the Original Application filed by the Respondents is a short order. It refers to the fact that the Original Application was filed for various reliefs but only relief regarding holding of examination for the post of Havildar Instructor pursuant to advertisement dated 27 March 2008. The Tribunal noted that the Respondents have not held the examination for the reasons best known to them. The Respondents cited administrative difficulties for holding the examination. Thereafter, the Tribunal proceeded to issue the directions to the State to hold the examination pursuant to the advertisement within a period of three months from the date of the order.

4. Thereafter, the Review Application was filed by the State. It was rejected by order dated 22 June 2015 primarily stating limitations of review.

5. The learned AGP contended that the Tribunal could not have issued the directions to hold an examination as the State has a discretion to hold an examination to conduct a recruitment process as per the prevalent rules and the vacancies. The grounds of challenge in the Petition is that if those posts are vacant and not filled up, the proposal for the same has to be placed before the Finance Department and only on the approval given by the Finance Department, the same is required to be approved by the Secretary of the High Power Committee. It is the contention of the State that

such a direction without consideration of any other aspects ought not to have been issued.

6. The advertisement was issued on 27 March 2008. The directions of the Tribunal also to hold the examination came to be issued six years thereafter. It is now nine years after the directions of the Tribunal. Therefore, according to us, in the present state of affairs, no purpose is served in retaining those directions to hold the examination within a period of three months that would be from today. It is also not clear whether the examination was held and even if it has to be held today, various questions would arise.

7. In these circumstances, the appropriate course of action would be to convert the directions given by the Tribunal to hold the examination within a period of three months and to consider whether holding of examination would be correct and proper.

8. Therefore, we dispose of the Writ Petition modifying the orders passed by the Tribunal for the State Government to take a decision as to whether the holding of the examination pursuant to the order dated 27 March 2008 is feasible, practicable and permissible as of today.

9. Writ Petition is accordingly disposed of.

MANJUSHA DESHPANDE, J.

NITIN JAMDAR, J.