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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3950 OF 2024
(Tukaram Ramchandra Kadam Vs. The State of Maharashtra and
Another)

Mr.V.H.Dighe, Advocate for the Petitioner.
Mr.S.B.Narwade, AGP for the Respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
R.M. JOSHI, JJ.)

DATE : APRIL 18, 2024

PER COURT :

1. This is yet one more case involving the same Education Officer (Secondary), Smt.Asha B.Garud, wherein an order has been passed in opposition to the Law laid down by the High Court. The proposal of the Management transferring the teacher under Rule 41-A of the MEPS Rules, 1981, from the unaided to the partially aided and partially aided to fully aided establishment, has been rejected by the impugned order dated 20.03.2024.

2. The State of Maharashtra had introduced a circular dated 01.12.2022 staying the effect of Rule 41-A. The said circular was stayed by this Court at the Nagpur Bench by an interim order dated

21.12.2022 passed in **Writ Petition No.8215/2022 (Friends Social Circle, Akola and Others Vs. The State of Maharashtra and Others)**. Finally, by judgment dated 21.07.2023, the said Petition was allowed and the said circular dated 01.12.2022, was quashed and set aside.

3. In one of the several cases that came up before this Court, we have directed the Principal Secretary, Higher Education to circulate the order to all the Education Officers in the State of Maharashtra intimating them that the circular dated 01.12.2022 is quashed and set aside and that should not be a basis for rejection of a proposal forwarded under Rule 41-A. Yet the impugned order has been passed.

4. The learned AGP submits that the above stated Education Officer is present in this Court and has filed an affidavit dated 18.04.2024. An unconditional apology has been tendered. It is further stated that the impugned order dated 20.03.2024, shall be recalled and the proposal would be considered afresh on its own merits by considering the effect of Rule 41-A. It is further stated that the Law laid down by this Court vide order dated 27.03.2023, in WP No.6009/2022 and 6025/2022, at Aurangabad, would be followed.

5. It is obvious that the Petitioner was required to approach this Court only because of the illegality of the order dated 20.03.2024. Since the Education Officer has tendered an apology, we were inclined to enter the said apology alongwith our order, in her service book. The learned AGP submits on instructions from the Education Officer present in the Court that she is willing to pay costs of Rs.25,000/- and seeks pardon, keeping in view that earlier also, this Court had passed an order in similar circumstances.

6. The learned Advocate for the Petitioner submits that the costs amount be donated equally to the Advocate Associations' Bar Library, High Court, Aurangabad and Advocate's Association of the Bombay High Court, Bench at Aurangabad.

7. Considering the gesture and the unconditional apology of the Education Officer, the said request is accepted. The impugned order stands recalled. The Education Officer shall decide the proposal on it's own merits by considering the record that is necessary to be taken into account, within a period of 60 days from today.

8. The amount that would be deposited in this Court within 15 days from today, shall be transferred in equal shares to the Advocate Associations' Bar Library, High Court, Aurangabad and Advocate's Association of the Bombay High Court, Bench at Aurangabad.

9. In view of the above directions, **this Writ Petition is disposed off.**

(R.M.JOSHI, J.)

(RAVINDRA V. GHUGE, J.)