

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7968 OF 2024

Raddi Shrishailya Basweshwar ... Petitioner

versus

The State of Maharashtra and Others ... Respondents

....

Mr.Satish S. Raut for the Petitioner.

Mr.S.B. Kalel, AGP for the Respondent -State.

....

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 13TH DECEMBER, 2024

P.C.:

1. Yesterday, we had passed the following order :

*“1. We have noticed that the Deputy Director Education, Mr. Rajendra Ahire is violating the mandate of this Court in **Friends Circle, Akola Vs. the State of Maharashtra & Anr. (Writ Petition No.8215 of 2022, Aurangabad Bench)**. The present Deputy Director Education, Mr. Harun Attar is present in the Court.*

2. The learned AGP informs us that Mr. Rajendra Ahire has asked him to convey to the Court that since he is before the Aurangabad Bench today, he will remain present in the Court tomorrow. Mr. Attar was unnecessarily required to come to the Court, despite he not being at fault.

3. Stand over to 13th December, 2024, on the supplementary board”.

2. The Petitioner has put forth prayer clauses (a), (b) and (c), as under:

“a) Call for relevant record from the office of Respondents and after going through the same, quash and set aside the impugned communication/ letter dated 07.03.2024, issued by the Respondent No.2 and for that purposes issue appropriate writ and/or order.

b) Direct the Respondent No.2 to grant approval to the Petitioners’ appointment to the post of Assistant Teacher on aided post/ division with effect from his appointment/ transfer i.e. 15.06.2023 from partially aided division along with all consequential benefits and for that purposes issue appropriate writ and/or order.

c) Direct Respondent No.2 herein to forthwith enter the name of the Petitioner in Shalarth Pranali and issue Shalarth Identity Number and further direct the Respondent Nos. 1 to 3 herein to release grant in aid so as to pay salary to the Petitioner since the date of his appointment and thereafter to pay regular salary with all consequential benefits.”

3. The Petitioner belongs to the open category. He has acquired M.Sc., B.Ed qualifications. He was appointed on 15th June, 2011 as a Shikshan Sevak on unaided basis by Respondent No.5. His appointment was approved by the Deputy Director of Education, Pune, on 20th March, 2012. In 2023, one Assistant Teacher on the aided establishment, retired from the Junior College and High School. The Management passed a resolution appointing the Petitioner by

transferring the Petitioner from the partially aided post to the aided establishment in Respondent No.5's school. An order dated 14th June, 2023 was issued with effect from 15th June, 2023. The proposal was forwarded to the Deputy Director of Education, Mr. Rajendra Ahire, Pune Division, Pune. Mr. Ahire is now the Chairman, Maharashtra State Board of Secondary and Higher Secondary, Divisional Board, Mumbai. Vide the impugned order, he has referred to a Circular dated 1st December, 2022, which was issued by the State Government, for suspending the effect of Rule 41A of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (the Rules of 1981). By the impugned order, the said Officer rejected the proposal on the ground that the Circular dated 1st December, 2022 is in force and by wrongly quoting Rule 41(1).

4. The Circular dated 1st December, 2022 was stayed by this Court at the Nagpur Bench, on 21st December, 2022 by way of an interim order in Writ Petition No. 8215 of 2022 (*Friends Social Circle, Akola and others vs. State of Maharashtra and others*,). By judgment dated 21st July, 2023, the said Circular was struck down and Rule 41 A of the Rules, 1981, was sustained [read (2023) 5 BCR 918].

5. The Aurangabad Bench, after noticing several matters wherein the Education Officers and the Deputy Directors of Education were passing orders relying on the Circular dated 1st December, 2022, directed the Principal Secretary, School Education and Sports Department, to circulate the judgment in ***Friends Social Circle, Akola (supra)*** to all the Officers of the Education Department in each District. Yet, the impugned order dated 7th March, 2024 has been passed.

6. We find the said conduct of the Officer to be conscionable and this being a fit case for initiation of Contempt of Court notice to Mr. Rajendra Ahire.

7. The learned AGP informs us that the said Officer is present in the Court today. A personal affidavit dated 13th December, 2024 has been filed wherein an unconditional apology has been tendered. The said affidavit is taken on record at page Nos. 69 to 72. The learned AGP pleads for one more opportunity and a pardon and submits, on instructions, that the said Officer is willing to pay cost as may be ordered by this Court.

8. The learned Advocate for the Petitioner submits that the cost may be decided by this Court and the said amount will be withdrawn by the Petitioner.

9. The learned AGP further points out that the present Deputy Director of Education, Mr. Harun Ismail Attar, has tendered an affidavit dated 12th December, 2024, which is at page Nos.62 to 68. The impugned order has been withdrawn vide the order dated 12th December, 2024, at page No. 67 and approval has been granted to the Petitioner.

10. Taking into account all these factors, we are imposing a nominal cost of Rs. 25,000/- which the said Officer, namely, Mr. Rajendra Ahire, would deposit in this Court from his salary bank account, within a period of 15 days from today. The Petitioner is at liberty to withdraw the said amount under proper identification by the learned Advocate. A copy of the Aadhar Card and IT Pan Card shall be placed on record.

11. We are pardoning the concerned Officer and we close this issue with this order.

12. Since the grievance of the Petitioner has been redressed, **this Writ Petition is disposed off.**

(ASHWIN D. BHOBE,J.)

(RAVINDRA V. GHUGE, J.)