

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8942 OF 2023

Shrirangdasswami Shikshan Vikas Mandal ...Petitioner

Versus

The State Of Maharashtra Thr. Secretary
School Education And Sports Dept. And Ors. ...Respondents

Mr. Ashish Varma for the Petitioner.

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

SNEHA
NITIN
CHAVAN

Digitally signed
by SNEHA NITIN
CHAVAN
Date: 2024.02.07
15:06:02 +0530

CORAM : NITIN JAMDAR AND
M.M.SATHAYE, JJ.
DATE : 2 FEBRUARY 2024

P.C. :

. Heard learned counsel for the parties.

2. It is not necessary to detail the facts of the case as the order passed by the Division Bench on 8 December 2023 refers to the controversy. The order reads thus:

“1] It is submitted by the learned counsel for the Petitioner that challenge raised to the rejection of approval on the basis of Circular dated 01/12/2022 has been considered and decided in Writ Petition No. 8215 of 2022 (Friends Social Circle and Ors., v/s State of Maharashtra and Ors.) and connected Writ Petitions decided at the Nagpur Bench on 21/07/2023.

2] Issue notice to Respondents, returnable on 12/01/2024.

3] Learned AGP waives service of notice on behalf of Respondent -State.”

3. Nothing is shown to us as to why the above referred decision is not applicable.

4. The Division Bench in Writ Petition No. 8215 of 2022 with connected Writ Petitions in the matter of *Friends Social Circle, Akola and Ors., v/s State of Maharashtra and Ors.* decided at the Nagpur Bench on 21 July 2023 has set aside the circular dated 1 December 2022, which is the basis of the impugned order. The operative order in the case of *Friends Social Circle, Akola* which reads as under:

“13. In the light of aforesaid discussion, the following order is passed:

(i) The Circular dated 01/12/2022 to the extent it stays the operation of Rule 41A of the Rules of 1981 is set aside for want of power with the respondent No.1 to do so.

(ii) Rest of the Circular dated 01/12/2022 insofar as it seeks to stay the operation of Government Resolution dated 01/04/2021 and also seeks to undertake a fresh exercise in the matter is not interfered with. The respondent No.1 is free to act in accordance with the Circular dated 01/12/2022 except to the extent specified herein above.

(iii) In Writ Petition No.8215/2022 the order dated 19/01/2023 passed by the Education Officer (Secondary), Zilla Parishad, Akola refusing to approve the appointment of petitioner No.3 is set aside to enable re-consideration of the petitioners’ proposal dated 14/07/2022.

(iv) In Writ Petition No.770/2023 the orders dated 31/10/2022 and 19/01/2023 passed by the Education Officer (Secondary), Zilla Parishad, Gondia refusing to approve the appointment of petitioner Nos.3 and 4 are set aside to enable re-consideration of the petitioners’ proposals 15/10/2022 and 20/12/2022.

(v) In Writ Petition No.810/2023 the order dated 19/01/2023 passed by the Deputy Director of Education,

Nagpur Division, Nagpur refusing to approve the appointment of petitioner Nos.3 and 4 are set aside to enable re-consideration of the petitioners' proposal dated 05/01/2023.

(vi) In Writ Petition No.824/2023 the order dated 19/01/2023 passed by the Deputy Director of Education, Nagpur Division, Nagpur refusing to approve the appointment of petitioner No.3 is set aside to enable re-consideration of the petitioners' proposal dated 05/01/2023.

(vii) The petitioners shall appear before the Education Officer (Secondary) or The Deputy Director of Education, Nagpur Division Nagpur as the case may be in respective writ petitions on 02/08/2023 to enable re-consideration of their respective proposals.

(iv) The petitioners are permitted to place before the concerned Education Officer (Secondary) or the Deputy Director of Education, Nagpur Division Nagpur all relevant documents on the basis of which the appointment of concerned petitioners is sought to be approved.

(v) After granting an opportunity to the petitioners, a fresh decision be taken within a period of eight weeks from the date of petitioners' appearance.

14. Rule is made partly absolute in aforesaid terms. All the Writ Petitions are disposed of. No order as to costs."

5. In light thereof, the impugned order in this petition is quashed and set aside. Respondent No.4 will pass the necessary orders in respect of the Petitioner's proposal as per the decision in the case of *Friends Social Circle, Akola* (Supra). Let the necessary order be passed within a period of six weeks from today.

6. Writ Petition is disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)