



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

WRIT PETITION NO. 2920 OF 2024

(Gandhi Vidyalay Shikshan Sanstha and anr Vs. The State of Maharashtra and ors)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R.L. Khapre, Senior Advocate i/b Mr. P.A. Jibhkate, Advocate for petitioners.

Mr. J.Y. Ghurde, AGP for respondent Nos. 1 to 3/State.

Mr. H.S. Rahangdale, Advocate for respondent No. 4.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATED : 27-01-2025

The petition questions order 13.12.2023 (page 69) passed by the respondent No. 1, in the Ministry of School Education.

2. Mr. Khapre, learned Senior Advocate for petitioners while assailing the said order, contends that the State in the said Ministry had no jurisdiction, whatsoever, to entertain any request/representation, from respondent No. 4, for grant of pension, a proposal for which has been directed to be submitted in terms of the impugned decision. Though Mr. H.S. Rahangade, the learned Advocate for respondent No. 4 tries to support the impugned decision 13.12.2023 (page 69), what is material to note, is that a specific plea raised in this regard, before this Court by the respondent No. 4 in Writ Petition No. 5965/2012 was turned down by the learned Division Bench by its judgment 6.5.2013 by holding that the Court cannot ignore the dismissal order and cannot construe the same as removal from service, so as to read down Sub-rule (3) of Rule 101 of the Maharashtra Civil Services (Pension) Rules to include cases of dismissal (page 41). The petition for special leave against

this judgment dated 6.5.2013 has been dismissed by the Hon'ble Apex Court on 6.12.2013 (page 43). This being the position, the learned Minister, could not have entertained any representation or appeal on behalf of the respondent No. 4 and issue a direction for submitting a pension proposal of the respondent No. 4. A perusal of the said decision, also does not indicate that the decision of the learned Division Bench dated 6.5.2013 and that of the Hon'ble Apex Court dated 6.12.2013 was ever brought to the notice of the concerned Minister, who is said to have taken the decision dated 13.12.2023. We therefore, find that the decision dated 13.12.2023, being contrary to the judgment in Writ Petition No. 5965/2012 as upheld by the Hon'ble Apex Court, cannot be sustained and is hereby quashed and set aside and the representation/appeal filed by the respondent No. 4 before the concerned Minister is rejected, as not maintainable.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)