

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 25/2009

**Amravati Shikshan Prasarak Mandal and another vs. The State Information
Commission and another**

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

Court's or Judge's orders

CORAM : S.R.DONGAONKAR, J.
DATE : 31st MARCH, 2009

Heard Shri Khajanchi, Advocate, for the
petitioner and Smt. Wasnik, A.G.P. for respondent
No.1.

2. None present for respondent no.2
though served.

3. In writ Petition No. 4843/2007, on
30.6.2008, the order was passed to give
opportunity of hearing to the petitioners and then
pass the appropriate orders. The relevant
observations read thus-

*“Mrs. Taywade, learned A.G.P. upon
taking instructions states that the
respondent – the State Information
Commissioner is ready and willing to
give hearing to the petitioners in
Appeal No. 482/07 filed by the
respondent no.2.*

In view of the statement made by

Mrs.Taywade, the learned A.G.P., the impugned order dated 8.10.2007 passed in Appeal No.. 482/07 is quashed and set aside. The State Information Commission shall give hearing to the petitioners and respondent no.2 and thereafter pass appropriate order in accordance with law. The petition stands disposed of.”

Later on the impugned order was passed on 15.9.2008.

4. It is contended by the learned counsel for the petitioners that even when this order was passed, the petitioners were not heard. The penalty was also imposed on the petitioners. According to the learned counsel for the petitioners, as the petitioners were not heard while passing the impugned order, the said order is incorrect for want of compliance of principle of natural justice.

5. Learned A.G.P. appearing for respondent no.1 has stated that the petitioners were noticed, however, they remained absent and therefore, the impugned order was passed.

6. Learned A.G.P. for respondent no.1 submitted that the notice was sent to the petitioners by post under postal certificate and on

the addresses given by the petitioners and therefore, the notice should be deemed to have been served.

7. Considering the totality of the circumstances, in my opinion, the petitioners need to be given an opportunity of hearing for penalty imposed as per the said order.

8. Therefore, the impugned order is quashed and set aside. The petitioners are directed to attend the office of Respondent No.1 on 28th April, 2009 at 11 a.m. Thereafter the respondent no.1 shall fix the date of hearing. He shall grant hearing to the petitioners. The petitioners may file written submissions, if desire. Thereafter, respondent no.1 may pass appropriate orders on merits.

Petition disposed of in above terms.

JUDGE

rvjalit