

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1493/2022

(Arising out of Special Leave Petition (C) No.2305/2022)

SAMRUDDHI SAMBHAJI PADWAL & ANR.

APPELLANT(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

RESPONDENT(s)

O R D E R

Leave granted.

We have heard learned counsel for the appellants and in substance are unable to appreciate the approach of the High Court in respect to the impugned order dated 28.1.2022 where it has opined that after hearing the counsel for petitioner(s)/ appellants herein at the length the Court was not inclined to entertain the petition and in fact was inclined to dismiss the same in view of the fact that the appellants did not avail of two consecutive attempts for improvement but at the persistent persuasion of learned counsel for the petitioner(s)/ appellants herein they were admitting the matter. The matter was admitted with no interim relief.

In any matter, more so of this nature, there is no charity to be done by the Court by admitting the matter and making it infructuous and adding to the arrear list of the High Court. Either the writ was liable to be allowed or dismissed. After opining it was required to be dismissed, we see no point why it was admitted.

Having said so we may notice the submission of the learned counsel for the appellants on merits where he relies on an Order passed by a coordinate Bench in Writ Petition No.8928/ 2021 on 02.9.2021 filed by the petitioner(s)/appellants. This Order, learned counsel states was placed on record along with the copy of the petition earlier filed. He has drawn our attention to the paragraph 3 of that Order where a concession is being made and recorded on behalf of the Board. In terms of the concession, it has been opined that the examination held in February, 2020 to appear in the Class Improvement Examination to be held by the Board in the last week of September would be considered as the first attempt. It is thus the submission of the learned counsel for the appellants that the attempt made by him earlier should be taken as a first attempt.

Whether in the facts of the case this proposition would apply or not is something which the High Court is required to consider on merits.

We are thus of the view that the appropriate course of action would be to set aside the impugned order to the extent it grants admission and says no stay with a direction that the matter be examined in the contours of the aforesaid controversy at the admission stage itself and a view taken on merits one way or the other.

The civil appeal is allowed in the aforesaid terms requiring the High Court to decide the matter on merits in terms aforesaid keeping in mind the judgment of the coordinate Bench of the Court as may be applicable to the facts of the present case expeditiously in order to ensure that the relief claimed by the appellants does

not become infructuous and he would know his fate one way or the other.

..... J.  
(SANJAY KISHAN KAUL)

..... J.  
(M.M. SUNDRESH)

NEW DELHI;  
18<sup>TH</sup> FEBRUARY, 2022

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No.2305/2022

(Arising out of impugned final judgment and order dated 28-01-2022 in W.P. No.13928/2021 passed by the High Court of Judicature at Bombay at Aurangabad)

SAMRUDDHI SAMHAJI PADWAL &amp; ANR.

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA &amp; ORS.

Respondent(s)

( IA No.21389/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT

IA No.21393/2022-EXEMPTION FROM FILING O.T. )

Date : 18-02-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. A. Karthik, Adv.  
Mr. Kailas Bajirao Autade, AOR  
Mr. Saaketh Kasibhatla, Adv.  
Ms. Sheetal Patil, Adv.  
Mr. Mool Singh, Adv.  
Mr. P. Prakash, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The civil appeal is allowed in terms of the signed order.

Pending applications stand disposed of.

(RASHMI DHYANI)  
COURT MASTER

(POONAM VAID)  
COURT MASTER

(signed order is placed on the file)