

1 HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE

WP No.20662/2020

Maa Renuka Shikshan Sansthan vs. State of M.P.

Indore: Dated:- 13/01/2021:-

Heard through Video Conferencing.

Shri Sunil Jain, learned Senior Counsel with Shri Harshwardhan Sharma, learned counsel for the petitioner.

Shri Vivek Dalal, learned Additional Advocate General for the State.

Shri Akash Sharma, learned counsel for the respondent No.3/University.

Heard.

Learned Senior Counsel for the petitioner, at the outset, submits that as per the return of the Govt., petitioner has an efficacious alternative remedy to prefer an appeal before Principal Secretary, Higher Education. Petitioner is ready to avail the said remedy. Petitioner shall file the said appeal along with relevant documents and stay application within 7 days' from today. Till his stay application is considered by Appellate Authority, impugned order may be stayed.

2) Shri Dalal, learned A.A.G. and Shri Akash Sharma has no objection if petitioner is permitted to avail the alternative remedy of appeal, but they vehemently opposed the prayer for grant of any interim order by this Court for intervening period.

3) We have considered this aspect.

4) In view of consensus on the question of availing alternative remedy, we are disposed to think that petitioner may be permitted to file an appeal before the competent

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authority. So far prayer for grant of interim relief is concerned, curtains on this point are finally drawn by Hon'ble Supreme Court in the case reported in *(2010) 9 SCC 437 (Kalabharati Advertising v. Hemant Vimalnath Narichania)*. Relevant para reads as under:-

“22. It is a settled legal proposition that the forum of the writ court cannot be used for the purpose of giving interim relief as the only and the final relief to any litigant. If the Court comes to the conclusion that the matter requires adjudication by some other appropriate forum and relegates the said party to that forum, **it should not grant any interim relief in favour of such a litigant for an interregnum period till the said party approaches the alternative forum and obtains interim relief.** (vide: [State of Orissa v. Madan Gopal Rungta](#), AIR 1952 SC 12; [Amarsarjit Singh v. State of Punjab](#), AIR 1962 SC 1305; [State of Orissa v. Ram Chandra Dev](#), AIR 1964 SC 685; [State of Bihar v. Rambalak Singh "Balak" & Ors.](#), AIR 1966 SC 1441; and [Premier Automobiles Ltd. v. Kamlakar Shantaram Wadke & Ors.](#), AIR 1975 SC 2238).”

(Emphasis Supplied)

5) In the light of principles laid down in the said judgment, it is clear that when petitioner is relegated to avail the alternative remedy, it will not be proper to grant any interim order. Petitioner may file stay application alongwith Appeal before the Appellate Authority. In that event, it shall be the duty of the Appellate Authority to consider and decide

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the stay application expeditiously. Petition is disposed of without expressing any opinion on the merits of the case.

**(SUJOY PAUL)
JUDGE**

**(SHAIENDRA SHUKLA)
JUDGE**

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