

(2006) 03 SC CK 0013

In the Supreme Court Of India

Case No : Civil Appeal No. 1683 of 2006 (Arising out of SLP (C) No. 16936 of 2003)

Dagdu

APPELLANT

Vs

President, Anandrao Naik S.P. Mandal and Others

RESPONDENT

Date of Decision : 20-03-2006

Acts Referred:

Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 — Section 2(20), 2(21), 2(6), 8, 9

Citation : (2006) 9 SCC 782

Hon'ble Judges : Ruma Pal, J; Dalveer Bhandari, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Leave granted.

2. The Appellant was appointed as an Assistant Teacher by the Vasantrao Naik Shikshan Prasarak Mandal in 1992. In 1995 the schools run by the Vasantrao Naik Shikshan Prasarak Mandal were taken over by the new trust called Anandran Naik Shikshan Prasarak Mandal'. The Anandrao Naik Shikshan Prasarak Mandal ran the Ashram School in which the Appellant was appointed as Head Master in 1996. on the basis of a clause in an affidavit alleged to have been filed by the Appellant with the Mandal, the Appellant's services were terminated in 1997. The Appellant filed an application challenging the termination before the Labour Court. An affidavit was filed by the District Social Welfare Officer stating that the jurisdiction to decide the dispute raised by the Appellant lay with School Tribunal and not with the Labour Court.

3. In 1997 the Appellant impugned the termination of his services before the School Tribunal, Aurangabad. An interim order was passed by the Tribunal staying the termination of the Appellant's services. The Tribunal ultimately disposed of the appeal filed by the Appellant by quashing the termination order and directing the Respondents to reinstate the Appellant with back wages and

other reliefs.

4. The Respondent No. 1-Mandal filed a writ petition before the Bombay High Court impugning the decision of the Tribunal. The writ petition was allowed on the sole ground that the Tribunal did not have the jurisdiction to entertain the Appellant's appeal. In support of its decision, the High Court relied upon a Full Bench decision of the same High Court in *Surya Kant v. Vasantrao Naik Vimukta Jati Bhatakya Jamati Aadarsh Prasarak Mandal* (WP No. 1573/99 judgment dated 12.4.2002).

5. Challenging the decision of the High Court the present appeal has been tiled by way of special leave petition.

6. The Tribunal was set up for the purpose of deciding disputes u/s 8 of the Maharashtra Employees of Private School (Conditions of Service) Regulation Act, 1977 (referred to as the 'Act'). Section 9 of the Act gives jurisdiction to the Tribunal to entertain appeals from employees in a private school. The words "Private School" have been defined in Section 2(20) of the Act as meaning a recognised school established or administered by a management, other than the Government or a local authority. The word 'recognised' has been defined in Section 2(21) as meaning recognition by the Director, the Divisional Board or State Board or by any officer authorised by him or by any of such Boards. A Director has been defined in Section 2(6) as meaning:

2(6) "Director" means the Director of Education or the Director of Technical Education for the Director of Vocational Education and Training) [or the Director of Art] as the case may be, appointed as such by the State Government.

((6A) "Divisional Board" means the Divisional Board established under the Maharashtra Secondary and Higher Secondary Education Boards Act, 1965;)

7. The Boards referred to in the definition of the word "recognised" means a Board which deal with education at levels other than the level at which the Ashram School of which the Appellant was the Head Master operates.

8. The Ashram School in question imparts only primary education from Standard I to Standard VII. It has not been recognised either by the Director or by the Boards as defined under the Act. Since it is not recognised therefore it is not a "private school" within the meaning of Section 2(20). Consequently, the Tribunal would not have the jurisdiction to entertain an appeal of the Appellant since he was not an employee of a, private school. The decision in *Surya Kant v. Vasantrao Naik Vimukta Jati Bhatakya Jamati Aadarsh Prasarak Mandal* is, in our opinion, correct, and the High Court rightly applied the principle thereof in the impugned decision.

9. The question then remains as to what remedy would the Appellant be left with in order to impugn the termination of his service? According to the affidavit filed on behalf of the State of Maharashtra an. appeal would lie to the Divisional Social Welfare Officer of the Division. Learned Counsel appearing on behalf of the

Respondent No. 1. also has no objection if such an appeal is filed, Accordingly the decision of the High Court is affirmed but the Appellant will be at liberty to file an appeal from the impugned order if he is so advised before the Divisional Social Welfare Officer of the Division. If such an appeal is filed the concerned officer will dispose of the same after hearing the Appellant and other affected parties within a period of four months from the filing "of the appeal. Learned Counsel appearing on behalf of the Respondents have fairly conceded that since the Appellant was pursuing his remedy in a wrong forum the issue of limitation will not be raised by them. The appeal is disposed of.