

(2010) 09 GUJ CK 0105

In the Gujarat High Court

Case No : Special Civil Application No. 727 of 2001

G.D. Education Primary School

APPELLANT

Vs

Controlling Authority Under Payment of Gratuity Act and
Others

RESPONDENT

Date of Decision : 28-09-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2010) 09 GUJ CK 0105

Hon'ble Judges : Mukesh R. Shah, J

Bench : Single Bench

Advocate : Mukund M. Desai, for the Appellant; Monali Bhatt, AGP for
Respondent Nos. 1 and 3 and K.N. Patel, for the Respondent

Final Decision : Dismissed

Judgement

M.R. Shah, J.—By way of this petition under Articles 226 and 227 of the Constitution of India the petitioner-G.D. Education Primary School, through its managing trustee, has prayed for an appropriate writ, order or direction quashing and setting aside the impugned order dated 25/10/1999 passed by respondent No. 1-Controlling Authority under the Payment of Gratuity Act on the ground that teachers are not covered under the Payment of Gratuity Act.

2. The learned advocate appearing on behalf of the petitioner has heavily relied upon the decision of the Hon"ble Supreme Court in the case of Ahmedabad Pvt. Primary Teachers" Association v. Administrative Office and 7 Ors. reported in 2004 (2) GLR 1828.

3. Shri K.N. Patel, learned advocate appearing on behalf of respondent No. 4 has submitted that in view of the subsequent amendment in the Payment of Gratuity Act, being Payment of Gratuity (Amendment) Act, 2009, payment of gratuity is made applicable to Education Institution having more than 10 employees with retrospective effect from 03/04/1997 and, therefore, it is requested to dismiss

the present petition.

4. Having heard the learned advocates appearing on behalf of the respective parties and considering the Payment of Gratuity (Amendment) Act, 2009, the provisions of the Payment of Gratuity Act, 1972 are made applicable to the Education Institution having more than 10 employees with retrospective effect from 03/04/1997, the present petition deserves to be dismissed.

5. In view of the above subsequent amendment in the Payment of Gratuity Act, 1972, the contention on behalf of the petitioner that the respondent is not entitled to gratuity cannot be accepted. In view of the above and for the reasons stated hereinabove, the present petition deserves to be dismissed and is accordingly dismissed. Rule is discharged. Ad-interim relief granted earlier, if any, stands vacated forthwith. No cost.