
(2007) 09 BOM CK 0048

In the Bombay High Court

Case No : Writ Petition (LDG) No. 1380 of 2007

Pragi Bharat Vankiani

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 20-09-2007

Acts Referred:

Constitution of India, 1950 — Article 12, 226

Citation : (2007) 6 ALLMR 603 : (2007) 6 BomCR 529 : (2008) 2 MhLj 241 :
(2008) 2 MhLj 240

Hon'ble Judges : Kumar Swatanter, C.J;Chandrachud D.Y., J

Bench : Division Bench

Advocate : Mukesh Vashi, instructed by M.P. Vashi Associates, for the Appellant;
S.M. Dandekar, A.G.P. for respondent Nos. 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

Chandrachud D.Y., J.—The Petitioner is a student of Standard VI at the M.D. Bhatia English Medium High School at Ghatkopar (East). At the annual examination held in March 2007, the petitioner was declared to have failed. The petitioner's father took up the matter with the Education Department and eventually, instituted these proceedings under Article 226 of the Constitution of India. Relying on Appendix 7 of the Secondary Schools Code, the petitioner has challenged the decision of the School and sought promotion to Standard VII.

2. Affidavits in reply have been filed in these proceedings by the Deputy Education Inspector, by the Management of the School and by the student. On behalf of the Management, a preliminary objection has been taken to the maintainability of the petition on the ground that the management is not "State" within the meaning of Article 12 of the Constitution. In the view which we have taken, it is not necessary for us to consider that objection since even on merits, we have arrived at the conclusion that the petition is lacking in substance.

3. Appendix 7 of the Secondary Schools Code contains Rules of Promotion. The

substance of the contention of the petitioner is found on a Government Resolution dated 19th November 1987. The Deputy Education Inspector has drawn the attention of the Court in his affidavit to the fact that the Government Resolution dated 19th November 1987 no longer holds the field since it has been replaced by a subsequent Government Resolution dated 31st August 2004 which came to be made applicable from the year 2005-06. The petitioner obtained 14 marks out of 100 in the written examination in the subject of Mathematics in the First Semester and 30 marks out of 100 in the examination for the Second Semester. Thus, the petitioner obtained a total of 44 marks out of 200 in both the Semesters. Under the GR dated 31st August 2004, the minimum required percentage is 25% i.e. 50 marks out of 200. The petitioner has clearly failed to achieve the required marks for being promoted to Standard VII.

4. We, therefore, do not find any merit in the grievance of the petitioner. The petition shall accordingly stand dismissed.