

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.9396 OF 2012**

Vijay Savalaram Dixit .. Petitioner  
Vs.  
Chhaya Gangaram Katkar & Ors. .. Respondents

**ALONG WITH  
WRIT PETITION NO.9211 OF 2012**

Subhash Tukaram Chavan .. Petitioner  
Vs.  
Chhaya Gangaram Katkar & Ors. .. Respondents

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Mr.Subhash Langote i/by Mr.V.A. Madane for the petitioners.  
Mr.Machindra Patil for the respondent no.1.  
Mr.A.R.Metkari, AGP for the respondent nos.8 to 10.

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**CORAM : R.D. DHANUKA, J.**  
**DATE : 20<sup>th</sup> June 2016**

P.C.

. Mr.Langote, learned counsel appearing for the petitioners in both the petitions invited my attention to the order dated 10<sup>th</sup> December 2015 passed by Shri N.M. Jamdar, J. recording a statement made by the learned counsel for the petitioners that the petitioners were not interested in challenging the order passed by the School tribunal per se and that the management had permitted the petitioners to work as Headmaster for certain period of time and both had now superannuated. This Court directed the Education officer to examine the contentions raised by the petitioners in their affidavits as regards the said position and to file a reply before the next date. This Court granted liberty to the Education Officer to call the petitioners and representative of the respondent-management if they desired to ascertain the position before

filing an affidavit before this Court on 22<sup>nd</sup> January 2016 and also the affidavit dated 25<sup>th</sup> April 2016 placing certain facts on record.

2. Learned counsel for the petitioners submits that in the affidavit dated 25<sup>th</sup> April 2016, the Education Officer had admitted that the petitioners were given the signing authority and worked as Headmaster from the date of their superannuation.

3. I have heard the learned counsel for the petitioners and also the learned AGP for the respondent nos.8 to 10 and Mr.Patil, learned counsel for the respondent no.1.

4. In my view, the issue of post retirement benefit to the petitioners cannot be independently decided unless this Court decides the validity of the order passed by the School Tribunal on merits in both these writ petitions by which the School Tribunal had allowed the appeals filed by the respondent no.1 and had decided against the petitioners.

5. I have enquired with the learned counsel appearing for the respondent no.1 and learned AGP for the respondent nos.8 to 10 whether they have any objection if the petitioners are allowed to urge all the issues raised in the petitions. Learned counsel appearing for the respondent no.1 and learned AGP for the respondent nos.8 to 10 have no objection if the petitioners are allowed to urge all the contentions raised in the petitions. They have no objection if the order dated 10<sup>th</sup> December 2015 passed by Shri N.M. Jamdar, J. is modified to this extent. Statement made by the learned counsel for the respondent no.1 as well as the

learned AGP for the respondent nos.8 to 10 is accepted. Since the management has not appeared before this Court inspite of service of notice of the arbitration petition upon the management, it would be appropriate if notice is issued to the management with a direction to remain present. If the representative of the management is absent on the next date, the matters would be proceeded in absence of the management.

6. Issue notice upon the respondent no.2 in both the petitions, returnable on 18<sup>th</sup> July 2016. In addition to the Court Notice, the petitioners are permitted to serve the respondent no.2 by private notice i.e. by courier/hand delivery/Registered Post A.D. and shall file an affidavit of service before the returnable date.

7. Office is directed to check pagination of the affidavits filed by the respondents. Parties are at liberty to verify the pagination as may be given by the office before the next date.

***R.D. DHANUKA, J.***