

ITEM NO.104

COURT NO.6

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 7468/2008

RAMESH

Appellant(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

(with appln.(s) for permission to file additional documents and interim relief and office report)

WITH

C.A. No. 191/2010
(With Office Report)

Date : 05/11/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s)

CA 7468/2008Ms. Madhavi Divan, Adv.
Mr. Sanjay Kharde, Adv.
Ms. Chandan Ramamurthi, Adv.CA 191/2010

Mr. Nishant Ramakantrao Katneshwarkar, Adv.

For Respondent(s)

Mr. Shankar Chillarge, Adv.
Mr. Aniruddha P. Mayee, Adv.Mr. Vivek C. Solshe, Adv.
Mr. C. G. Solshe, Adv.

Mr. Sudhanshu S. Choudhari, Adv.

Mr. T. Mahipal, Adv.

Mr. Gopal Singh, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Civil Appeal No. 7468 of 2008

The appellant was appointed as a Primary Teacher in Shri Swami Samrath Vidya Mandir on 14.06.1999. It is not in dispute that he had obtained a diploma from Devi Ahilya Viswavidyalaya, Indore in the year 1996. After being appointed as a Primacy School Teacher in the school (respondent No. 7), he continued on a fixed scale of pay.

As the qualification obtained by the appellant from Devi Ahilya Viswavidyalaya, Indore was not recognised, the appellant knocked at the doors of the High Court of Judicature at Bombay but he did not meet with any success.

During the pendency of the present appeal, the State Government has issued a notification on 12.12.2006 which reads as follows :-

"The degrees/diplomas of the recognised universities/institutes are particularly referred to as qualifications for appointment on various posts in the State Govt. Service in the Recruitment Rules of the concerned posts. The

list of such recognised Universities/Educational Institutions had been published earlier vide Govt. Decision under reference dated 10 December, 1998. In the meantime some new Universities/Deemed Universities/Institutes received recognition from the University Grants Commission. Therefore it has become necessary to revise and update the list of Universities/Institutes published in the government decision dated 10 December, 1998.

Govt. Decision :- Having consulted with the Maharashtra Public Service Commission it was decided vide Govt. Decision dated 10 December, 1998 that, the degrees/diplomas conferred by the Universities founded as per the laws of the Central and State Legislature, other Educational Institutions founded as per the laws of the Parliament or the Deemed Universities declared under Part - 3 under Universities Grant Commission Act 1956 and the degrees in the Medical and Related subjects included in the Appendix of Medical Board of India Act 1956 should be deemed as having received automatic sanction for the recruitment on the state service and posts barring teaching posts in the government colleges.

2. Now an up to date list of University Grant Commission recognised Universities and Institutes is now attached with the said order. The list mentioned in Govt. Decision, General Administration Department, No. RGD - 1398/Admin. No. 67/98/13, dated 10 December, 1998 should now be deemed as revised as above and the degrees/diploma conferred by the Universities/Institutes mentioned in the said list should be deemed as having automatic sanction for the purpose mentioned in the above paragraph.

By Order and in the name of the Governor of Maharashtra."

The said order, as is evident, has been passed in the name of the Governor of Maharashtra. Be

it stated, in the said order, the name of Devi Ahilya Viswavidyalaya, Indore finds place at serial No. 125, which is a State University. It has also recognised many such institutions treating the qualification to be equivalent. Thereafter, another decision has been taken by the School Education & Sports Department on 16.12.2010. It is appropriate to refer to the said decision in entirety which reads as follows:-

"Introduction- Vide Govt. Decision dated 31 May, 1993 orders have been issued regarding the Training Qualifying D.Ed. Diploma of any other state and University outside the State of Maharashtra being not equivalent with the D.Ed. Diploma in the State of Maharashtra. Whereas, the Central Administration Department vide Govt. Decision dated 12 December 2006 has issued orders that, the Degree/Diploma conferred by the Universities recognised by the University Grant Commission should be deemed having received automatic sanction for the recruitment on the services and posts in the states barring teacher's posts in government colleges. Accordingly the Hon'ble High Court, Division Bench, Nagpur has given orders on dated 22 July, 2009 in connection with the Writ Petition No. 4496/2008 filed before the Hon'ble High Court, Division Bench, Nagpur that, the government should decided whether the training Diploma outside the state of Maharashtra are valid or not. There is inconsistency found in the said government decision taken by the School Education and Sports Department and General Administration Department. In order to do away with the said inconsistency the issue of determining the equivalency of Training Diploma outside the State of Maharashtra was under consideration of the government. In this behalf the decision has been taken as follows.

Govt. Decision:- Having superceded Paragraph No. 3 in the Government Decision dated 31 May, 1993 All the D.Ed Diploma Holders out side Maharashtra and the Diploma holders who have received Diploma from the Universities recognised by the University Grant Commission and approved by NCTE should be deemed equivalent with the Diploma in Teacher Education in the state. Whereas, the said candidates would be eligible subject to following condition for the Primary Teaching Staff Recruitment in the state prescribed vide School Education and Sports Department Govt. Decision No. PRE-2006/(4767)/PE-1, dated 16 December, 2009.

1. The said Diploma Holder candidate should have domicile of Maharashtra for at least 15 years.

2. The said candidate is required to pass the examination of Marathi Language of the prescribed Board after being selected as Primary Teacher staff.

3. The said candidate is required to pass the computer examination of the M.S.C.I.T. authorised by the Maharashtra State Board of Higher and Technical Education, Mumbai as per Govt. Decision No. - Training - 2000/Admin. No. 61/2001 dated 7 August, 2001.

Ms. Madhavi Divan, learned counsel appearing for the appellant, has drawn our attention to certain orders, one of them is at page 45 (Annexrure A-8) of the Interlocutory Application No. 5 of 2014. It is appropriate to reproduce the same:-

"With reference to aforesaid reference No. 1 DIP. TE. (Sagar University) Diploma holder candidates are considered as trained teachers, in view of the judgment in W.P. No. 4496/2009 passed by the

High Court of Bombay, Bench at Nagpur and further Government decision dated 16.12.2010 following untrained primary teachers will be considered as trained primary teacher from the date of his appointment and it is hereby sanctioned the pay scale of Rs. 1200-2040 and the pay scale sanction by the commission from time to time candidate for the post.

SL No.	Name	Working within Panchayat Samiti
1.	Gaikwad Yogendra Raghunath	Panchayat Samiti, Kannad

Sd/-
Chief executive officer
Z.P. Aurangabad"

She has also brought on record certain orders which are similar in nature. It is submitted by Ms. Madhvi Divan that the appellant, who is a Primacy School Teacher, stands on the equal footing on the basis of the resolution/decision taken by the State Government and there is no reason not to extend the similar benefits to him.

Regard being had to the said decision, we would like the Secretary, Department of Education, to take a decision on the basis of the aforesaid resolutions and keeping in view the doctrine of

parity. This Court hopes and trusts that the decision to be taken by the State Government shall be an informed one and definitely indicating the spirit of equality, for it has extended the benefits to similarly situated persons which is *prima facie* demonstrable. Let the State Government take a decision within a period of eight weeks and file the decision before this Court.

Let the matter be listed in the third week of January, 2015 for further hearing.

Civil Appeal No. 191 of 2010

List along with Civil Appeal No. 7468 of 2008.

(RAJESH DHAM)
COURT MASTER

(TAPAN KUMAR CHAKRABORTY)
COURT MASTER