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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE/ORIGINAL JURISDICTION

CIVIL APPEAL NO. 3070 OF 2004

| GOVERNING BODY OF P.A.E.M. COLLEGE & ANOTHER |...| APPELLANT(s) |

| Versus |

| STATE OF JHARKHAND AND OTHERS |...| RESPONDENT(s) |

WITH

CIVIL APPEAL NO. 4186 OF 2004

| TELESOPHORE P. TOPPO |...| APPELLANT(s) |

| Versus |

| TEACHERS' ASSOCIATION, PARAMVEER ALBERT EKKA |...| RESPONDENT(s) |
| MEMORIAL COLLEGE AND OTHERS | |

WITH

WRIT PETITION (C) NO. 560 OF 2006

| BARWAY VICARIATE CATHOLIC SABHA AND OTHERS |...| APPELLANT(s) |

| Versus |

| STATE OF JHARKHAND AND OTHERS |...| RESPONDENT(s) |

O R D E R

CIVIL APPEAL NO. 3070 OF 2004:

The appellants are the original petitioners in the Writ Petition filed by them before the Jharkhand High Court. In the Writ Petition, the principal challenge was to the order passed by the Government of Jharkhand holding that the college, renamed as Paramveer Albert Ekka Memorial College (first appellant), was not a minority institution entitled to the protection of Article 30(1) of the Constitution of India. While dealing with the above Writ Petition along with other Writ Petitions, the High Court proceeded to observe that the question that had to be decided by the Government was whether the institution was established by a minority community. The High Court observed in the impugned order that there was no adequate material or conclusive material on the basis of which one could come to the college that first appellant college was established by a minority community or that it was established exclusively by a minority community. The High Court further found that all the

relevant materials have been considered by the Government and, therefore, the order of the Government could not be faulted. Accordingly, the High Court dismissed the Writ Petition of the appellants.

2. The order passed by the High court on March 9, 2004 is impugned in the present Civil Appeal.

3. Mr. A. Mariarputham, learned senior counsel for the appellants submitted that after the decision given by the High Court on March 9, 2004, a Central Act namely; The National Commission for Minority Educational Institutions Act, 2004 (for short "2004 Act") has been enacted by the Parliament which has come into force on November 11, 2004. Mr. A. Mariarputham further submitted that by the National Commission for Minority Educational Institutions (Amendment) Act, 2006 (for short "Amendment Act"), 2004 Act has been further amended.

4. Learned senior counsel for the appellants submitted that under the 2004 Act, as amended by the Amendment Act, the National Commission for Minority Educational Institutions (for short "the Commission") constituted under the 2004 Act has been empowered to decide all questions relating to the status of any institution as minority educational institution and declaration of status as such. Section 11(f) of the 2004 Act reads as follows:

"decide all questions relating to the status of any institution as a Minority Educational Institution and declare its status as such.".

5. By Amendment Act, Section 12B has been inserted in 2004 Act, which reads as follows:

"12B. Power of Commission to decide on the minority status of an educational institution.-(1) Without prejudice to the provisions contained in the National Commission for Minorities Act, 1992 (19 of 1992), where an authority established by the Central Government or any State Government, as the case may be, for grant of minority status to any educational institution rejects the application for the grant of such status, the aggrieved person may appeal against such order of the authority to the Commission."

6. From the above provisions, it is clear that the Commission has the power to decide all questions relating to the status of any institution as minority educational institution and declare its status as such. More over under Section 12B, where an authority established by the Central Government or any State Government has rejected the application for grant of minority status to any educational institution, the aggrieved person may appeal against such order of the authority to the Commission. The provisions contained in Section 11(f) of 2004 Act and Section 12B of the Amendment Act are, thus, wholesome provisions for deciding all questions relating to the status of any institution as minority educational institution and for declaration of such status.

7. Having regard to the above provisions contained in 2004 Act as amended by the Amendment Act, we are satisfied that the correctness of the impugned order need not be examined by us and it will be appropriate if the first appellant college is given an opportunity to approach the Commission for declaration of its status as minority institution. If the proceedings are initiated by the first appellant college before the Commission for declaration of its status as minority educational institution, the Commission shall proceed to determine the question relating to the minority educational status of the first appellant college in accordance with law, after giving an opportunity of hearing to the State of Jharkhand, Teachers' Association of the appellant No. 1 college as well as Ranchi University, uninfluenced by any observation made in the impugned order and on the basis of the

materials that may be placed before it.

8. Mr. Jayesh Gaurav, learned counsel for the State of Jharkhand submits that if the first college moves the Commission within six weeks from today, until the matter is concluded before the Commission, status quo with regard to the status of the first appellant college, which has been obtaining during the pendency of the present Civil Appeal, shall not be disturbed.

9. Civil Appeal stands disposed of. No costs.

CIVIL APPEAL NO. 4186 OF 2004:

In view of the order passed by us today in Civil Appeal No. 3070 of 2004 - Governing Body of P.A.E.M. College and another vs. State of Jharkhand and others, no separate order needs to be passed in the present Civil Appeal. It stands disposed of accordingly. No costs.

WRIT PETITION (C) NO. 560 OF 2006:

In view of the order passed by us today in Civil Appeal No. 3070 of 2004 - Governing Body of P.A.E.M. College and another vs. State of Jharkhand and others, Mr. Ashwani Bhardwaj, learned counsel for the petitioners does not press the Writ Petition.

Writ Petition is dismissed as not pressed.

.....J.
(R.M. LODHA)

.....J.
(ANIL R. DAVE)

NEW DELHI
DECEMBER 6, 2012.

ITEM NO.101

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 3070 OF 2004

GOVERNING BODY OF P.A.E.M.COLLEGE & ANR.

Appellant (s)

VERSUS

STATE OF JHARKHAND & ORS.

Respondent(s)

WITH Civil Appeal NO. 4186 of 2004

(With prayer for interim relief and office report)

W.P(C) NO. 560 of 2006

(With office report)

Date: 06/12/2012 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s)

CA 3070 Mr. A. Mariarputham, Sr. Adv.
Dr. M.P.RAju, Adv.
Ms Mary Scaria, Adv.
Mr. Ashwani Bhardwaj, Adv.

CA 4186 Mr. A. Mariarputham, Sr. Adv.
Dr. M.P.RAju, Adv.
Mr James Thomas, Adv., Adv.
Mr. Ashwani Bhardwaj, Adv.

WP 560 Dr M.P. Raju, Adv.
Mr. Ashwani Bhardwaj, Adv.

For Respondent(s)

State Mr. Jayesh Gaurav, Adv.
Ms. Priyanka, Adv. for
Mr. Anil K. Jha, Adv.

Ranchi University Mr. Gopal Prasad ,Adv

Mr. Rudhreshwar Singh, Adv.
Mr. Gopal Jha, Adv. for
Mr. Sanjay Jain ,Adv

Mr. P.George Giri, Adv.
Mr. V.K. Sidharthan ,Adv

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UPON hearing counsel the Court made the following

O R D E R

C.A. Nos. 3070 of 2004 and 4186 of 2004:

Appeals stand disposed of in terms of signed order.

Writ Petition (C) No 560 of 2006:

Writ Petition is dismissed as not pressed in terms of signed order.

Pending application(s), if any in Civil Appeals and Writ Petition, stand disposed of.

|(Pardeep Kumar)
|Court Master

|(Indu Bala Kapur)
|Court Master

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[ONE SIGNED ORDER IS PLACED ON THE FILE]