

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. 5988 OF 2001@@
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ABDUL LATIF MOHD. SIDDIQUE ...APPELLANT

VERSUS

MUSLIM EDUCATION SOCIETY & ORS. ...RESPONDENTS
(With office report)

WITH C.A.No.5989/2001

Date : 25/02/2003 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s) Mr. Rohit Alex, Adv.
Mr. P.H. Parekh, Adv.

For Respondent (s) Mr. M.S. Ganesh, Sr.Adv.
Mr. Rishi Kesh, Adv.
Mr. Balraj Dewan, Adv.

Mr. R.B. Masoodkar, Adv.
Mr. S.S. Shinde, Adv.
for Mr. V.N. Raghupathy, Adv.

UPON hearing counsel the Court made the following
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Heard learned counsel for the appellant for half an hour. Learned Senior Counsel for the respondent made his submissions in reply for 5 minutes.
The appeals are dismissed in terms of the signed order.

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Sarita (Shelly Sengupta)
Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

ABDUL LATIF MOHD. SIDDIQUE . . . APPELLANT

VERSUS

MUSLIM EDUCATION SOCIETY & ORS. . . RESPONDENTS

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The appellants in these appeals were appointed as Assistant Teachers for the first time in the year 1993 for a period of one year and after termination of their services they were again appointed for one year in the year 1994. During the probation period, their services were terminated on the ground that their services were no longer required as they were not able to teach the students properly. The appellants challenged the order of the termination of services before the School Tribunal under Section 9 of the Maharashtra Employees of Private School Regulation Act, 1977. The School Tribunal, after considering the respective contentions of the parties, dismissed their appeals. Aggrieved by and not satisfied with the order passed by the tribunal in the appeals
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filed by them, the appellants moved the High Court by filing writ petitions. The learned Single Judge after hearing learned counsel for the parties concluded that the respondents were bonafide in assessing the unsatisfactory services of the appellants and taking note of the fact that the question of malafide was not urged before him by the appellants, dismissed the writ petitions. The appellants pursued the matter further by filing Writ Appeals before the Division Bench of the same High Court. The Division Bench concurred with the conclusion arrived at by the learned Single Judge. In that view, the Writ Appeals were also dismissed. Hence these appeals.

Learned counsel for the appellants contended that all was not well with the respondents-Management. They appointed the appellants for one year, gave a break and again appointed them for one more year. Not only that, even after receiving the order of termination of their services, they were allowed to teach the students for few more months; they adopted a policy of hire and fire. In that view the School Tribunal as well as the High Court committed an error in dismissing the claim made by the appellants.

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In opposition, Mr. M.S. Ganesh, learned Senior Counsel for the respondents made submissions supporting the impugned order. He pointed out that the appellants did not plead any malafides on the part of the respondents; they did not plead and prove that there was really a case of malafide and that the respondents adopted a policy of hire and fire. On the concurrent facts recorded by the Tribunal as well as by the High Court, this Court may not interfere having regard to the facts and circumstances that have come on record.

Having perused the order of the School Tribunal as well as that of the learned Single Judge, we do not find any good ground to interfere with the impugned order. The Division Bench of the High Court rightly affirmed the same. Since the appellants failed to establish that it was a case of hire and fire by pleading and by placing necessary material before the Tribunal in the first place and at least before the learned Single Judge in the writ petition, on facts and looking to the concurrent findings recorded, it is difficult for us to

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take a different view. We do not find any merit in these appeals. Consequently, they stand dismissed. No costs.

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.....J.
(SHIVARAJ V. PATIL)

New Delhi,
February 25, 2003.

.....J.
(ARIJIT PASAYAT)