

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.6225/2000@@
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Hindi Seva Mandal, Bhusawal & Anr. Appellant (s)

VERSUS

Teachers Asso.for Non-Aided Poly. & Ors. Respondent (s)

(With appln.for directions/re-calling Court's order dated
3.11.2000 and permission to submit addl. documents)

Date : 28.03.2001 This appeal was called on for hearing today.@@
AA

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Mr. V.A. Mohta,Sr.Adv.
Mrs. Amita Lalit,Adv.with
Mr. U.U.Lalit,Adv.

For Respondent(s) M/s. S.S.Shinde,S.V.Deshpande,Advs.

Mr. R.Sundaravardhan,Sr.Adv.
Mr. S.K.Verma,Adv.
Mr. S.M. Jadhav,Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

The appeal is disposed of.

.SP1

(Y.P.Dhamija) (Suneet Bala Sharma)@@
AA
COURT MASTER Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6225/2000@@
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Hindi Seva Mandal
Bhusawal & Anr. ...Appellants

Vs

Teachers Asso.for Non-Aided
Poly. & Ors. ...Respondents

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

Though, an application has been filed for recalling the order dated 3.11.2000, but in view of our order disposing of the appeal, the question for recalling the said order does not arise.

The employer is in appeal against the order of the Division Bench of Bombay High Court dated 23rd April, 1999. The employees having filed a Writ Petition claiming salary including all allowances to be paid, as is fixed for the Teacher of a Government School, the High Court by the impugned order allowed the Writ Petition. The High Court has passed a very cryptic order on the basis of the so-called undertaking given by the employer at the time of recognition. But it transpires that the so-called undertaking could not be produced in course of the proceedings. The Directorate of Technical Education issued a letter dated 29th September, 1995 addressed to the Management of unaided Engineering

- 2 -

Technical, Pharmacy, Architechture, Caterinng, Computer Sciences, Management Educational Programmes informing that they are bound to pay the salary, allowances, bonus, Travelling Allowances, Medical facilities, Insurance, death or retirement gratuity as per the directions issued by the Government from time to time. This condition is part of the conditions imposed at the time of permitting the Institutions to start their courses, which is disputed by the Management. Two questions would crop up for consideration as to whether such a direction could be issued without any statutory authority, and whether such a direction could be enforceable for issuance of a Mandamus under Article 226 of the Constitution. This would necessarily mean that the source of the power conferring the authority to issue the letter has to be looked into, and further whether in fact an undertaking had been given, and if so, what would be the effect for non-compliance of the undertaking as well as whether the undertaking in question could be enforced so far as the payment of salary is concerned, all have to be examined. The impugned judgment, on the face of it, shows that the High Court has not considered all these aspects. Under these circumstances, we think it appropriate to quash the impugned order of the High Court and remit the matter to the High

Court for re-consideration and re-disposal of the Writ Petitions after considering the submissions made by the rival

- 3 -

parties, namely, the Management, the employees as well as the State Government, and also AICTE, as the institution appears to be Polytechnic Institution. Since this involves the question of payment of salary to the Teachers, the High Court of Bombay is requested to hear and dispose of the matter at an early date. The learned Chief Justice of the Bombay High Court is requested to fix-up the matter for early hearing.

The appeal is disposed of accordingly.

.SP1

.....J.
(G.B. PATTANAİK)

New Delhi,
March 28, 2001

.....J.
(B.N. AGRAWAL)