

ITEM NO.16

COURT NO.10

SECTION IVA

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

Petition(s) for Special Leave to Appeal (Civil)...../2011

CC 11731/2011

(From the judgement and order dated 30/7/2010 in WA 10439/2009 of the Karnataka High Court, Circuit Bench at Gulbarga)

STATE OF KARNATAKA & ORS.

Petitioner(s)

VERSUS

AYUB KHAN PATEL & ANR.

Respondent(s)

IA 1 (C/delay in filing SLP)

Date: 25/07/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE H.L. DATTU

For Petitioner(s) Mr. V.N. Raghupathy, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

O R D E R

The delay of 152 days in filing the special leave petition is condoned.

The petitioners are aggrieved by the order of the Division Bench of the Karnataka High Court which declined to interfere with the directions given by the learned Single Judge of the High Court for approval of the appointment of respondent No.1 as Head Master.

We have heard Shri V.N. Raghupathy, learned counsel for the petitioners.

In furtherance of the permission granted by Assistant Education Officer, Aurad, District Bidar in 1989, the management of Mahatma Phule Education Society

2

issued advertisement for recruitment of Head Master in the Higher Primary School. Respondent No.1 was one of the candidates who had applied for selection.

considering the competing claims of eligible candidates, the management selected respondent No.1 and appointed him as Head Master vide order dated 16.7.1989. After 6 years, the Assistant Education Officer declined to approve the appointment of respondent No.1 on the ground that that there was no requirement of the post of Head Master.

The learned Single Judge disposed of the writ petition filed by respondent No.1 and directed that appointment of respondent No.1 should be approved.

The Division Bench of the High Court dismissed the writ appeal filed by the petitioners by recording the following observations:

"In regard to the appointment of the

petitioner, there is no fault at all the petitioner has worked from the year 1989 and the order of the Single Judge is passed only on the peculiar facts of this case and would not be a precedent. We do not find any reason for interference with the order of the learned Single Judge."

In our view, the direction given by the learned Single Judge to the concerned authority to approve the appointment of respondent No.1 was fully justified because he had been appointed after selection made by the management, which had sought permission of the Assistant Education Officer to appoint Head Master and the Division Bench of the High Court rightly declined to interfere because as on the date of termination of service, respondent No.1 had continuously worked for a period of six years.

3

With the above observations, the special leave petition is dismissed.

The petitioners shall, if they have already not done so, implement the order of the learned Single Judge within a period of two months from today.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master