

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).21317/2008

(From the judgement and order dated 14/12/2007 in LPA No. 307/2007 & MCA No. 349/2007 of The HIGH COURT OF BOMBAY AT NAGPUR)

JEEVAN VIKAS EDUCATION SOCIETY,NAGPUR Petitioner(s)

VERSUS

HARIBHAU SANTOSHRAO NIMBALKAR & ORS. Respondent(s)

Date: 19/02/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Petitioner(s) Mr. Manish Pitale, Adv.  
Mr. Wasi Haider, Adv.  
Mr. Chander Shekhar Ashri,Adv.

For Respondent(s) Mr. Satyajit A. Desai, Adv.  
Ms. Anagha S.Desai,Adv.  
  
Mr. Sanjay Kharde, Adv.  
Ms. Asha Gopalan Nair, Adv.

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

Leave granted. Heard the parties.

Appeal is allowed in terms of the signed order.

( Ravi P. Verma ) ( M.S. Negi )  
Court Master Court Master  
[Signed order is placed on the file]  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1971 OF 2010  
[Arising out of SLP(C) No.21317/2008]

JEEVAN VIKAS EDUCATION SOCIETY, .....APPELLANT  
NAGPUR

Versus

HARIBHAU SANTOSHRAO NIMBALKAR & .....RESPONDENT(S)  
ORS.

O R D E R

Leave granted. Heard the parties.

2. The first respondent was working as a teacher in the

school run by the appellant. The appellant imposed the punishment of dismissal on the first respondent on 25.9.1989. The first respondent challenged the said dismissal before the School Tribunal. By order dated 28.3.2004, the School Tribunal set aside the dismissal and directed reinstatement with back wages. Feeling aggrieved, the appellant filed a writ petition. In the said writ petition, the High Court granted stay of reinstatement and back wages subject to payment of salary from 1.4.1994.

3. As the appellant could not afford to pay salary to first respondent without taking work, on its request the High Court modified the interim order dated 14.10.1996 and directed the appellant to reinstate the first respondent. ....2.

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The writ petition was thereafter pending for several years and the first respondent retired from service on 30.4.2004. Thereafter, the writ petition filed by the appellant came up for hearing. The learned single Judge, by order dated 10.10.2006, dismissed the writ petition as having become infructuous. The review petition filed by the appellant was dismissed on 12.4.2007 and the LPA filed by the appellant was also rejected on 14.12.2007 reiterating that the writ petition had become infructuous on account of first respondent being reinstated during the pendency of the writ petition. The said order is challenged in this appeal by special leave contending that the writ petition had not become infructuous.

4. Merely because in pursuance of an interim direction granted by the High Court on 14.10.1996 the appellant had reinstated the first respondent, the writ petition did not become infructuous. The reinstatement itself would be

subject to the final decision. Further, the issue of back wages, issue of terminal benefits and the validity of termination were issues that required consideration in the writ petition.

5. In view of the above, we allow this appeal, set  
.....3.

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aside the orders dated 10.10.2006, 12.4.2007 and 14.12.2007 and restore and remand the writ petition to the file of the learned single Judge for consideration and disposal in accordance with law. All contentions of the first respondent are left open.

7. The proposal of the first respondent that in view of the subsequent reinstatement and retirement, his reinstatement may be upheld without back wages, may be considered by the appellant and if settlement is reached, it may be reported to the High Court.

.....J.  
( R.V. RAVEENDRAN )

New Delhi;  
February 19, 2010.

.....J.  
( K.S. RADHAKRISHNAN )