

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7090 OF 2005

Sharadchandra Shamrao Chavan
since deceased by heirs

Sou. Phulabai S. Chavan and ors.

.. Petitioners

vs.

The President,

Jai Bhavani Education Society, Girvi

Tal. Phaltan, Dist. Satara and ors.

.. Respondents

Mr. Gautam Bhagwat a/w. Ms Saroj Ghatge i/b Divekar Bhagwat & Co. for the Petitioner.

Mr. Vijay Patil a/w. Mr. Nikhil Chavan for Respondent Nos.1 and 2.

Ms Vaishali Nimbalkar, AGP for Respondent No.3

CORAM : M. S. SONAK, J.

Date of Reserving the Order : 26 February 2015.

Date of Pronouncing the Order : 13 March 2015.

P.C.:-

1] In so far as the legal issues involved in this petition are concerned, the same are substantially dealt with in the judgment and order made in Writ Petition No.7093 of 2005, the connected petition.

2] However, in so far as the final relief, that is to be granted, there are certain distinguishing features.

3] The services of Shri. Sharadchandra Chavan, the original petitioner were terminated in June 2000 on the ground of closure of vocation stream. The School Tribunal rejected, the said petitioner's appeal against the order of termination. During the pendency of the present petition, this Court made an order on 28 April 2006, which records that respondent No.3 agreed to absorb the petitioner in

some other institution. In view of such agreement, Rule was issued in the petition on the question of backwages only.

4] The original petitioner, however, expired on 2 June 2006 i.e., before the commencement of the academic year 2006 - 2007 and consequently was deprived of benefit of absorption, notwithstanding the agreement in this regard as recorded by this Court in its order dated 28 April 2006. The petitioners in the accompanying petitions, namely Writ Petition Nos. 7093, 7091 and 7092 of 2005 have been absorbed in other schools/institution and now continue in such service. The legal heirs of the original petitioner came to be brought on record and it is such legal heirs, who are now pursuing the present petition.

5] In the judgment and order made in Writ Petition No.7093 of 2005, this Court has held that the termination of services of the employees from the vocational school without compliance with the provisions contained in Rule 27 of Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981 (MEPS Rules) was not proper. However, taking into consideration, *inter alia*, the circumstance that the employees who were the petitioners in Writ Petition Nos.7093, 7091 and 7092 of 2005 were absorbed in some other institutions/schools, backwages for period of only two years were directed to be paid to them. In so far as the present writ petition is concerned, as noted earlier, the original petitioner would not avail the benefit of absorption, due to his unduly demise on 2 June 2006.

6] In the aforesaid peculiar facts and circumstances of the present case, this petition is disposed of by the following order :

- (A) The impugned termination order is set aside;
- (B) The respondents are directed to pay to the petitioners back-wages for the period between June 2000 and June 2006 within a period of eight weeks from today;
- (C) The respondents are directed to consider the period between June 2000 and June 2006 as period spent on duty by Shri Sharadchandra Shamrao Chavan and to consider further whether on the said basis, any retiral benefits are due and payable to the family members of late Shri Sharadchandra Shamrao Chavan. The necessary decision in this regard to be taken within a period of three months from today.

7] Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

(M. S. SONAK, J.)

8] At this stage, learned counsel for respondent Nos.1 and 2 submitted that the period of eight weeks for compliance be extended to twelve weeks. Accordingly, said period is extended to twelve weeks from today.

(M. S. SONAK, J.)