

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Misc. Civil Application [Review] No.264 of 2015
IN
Writ Petition No. 1272 of 2014 [decided]
[Sneha Shikshan Sanstha, Lakhori, Distt. Bhandara Vs. Gramin
Vikas Gyan Samvardhan Shikshan Sanstha & others]

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. A.Z. Jibhkate, Adv., for the Applicant.
Mr. R.S. Parsodkar, Adv., for respondent No.1.
Mr. D.B. Patel, AGP for respondent Nos. 2 to 5.
Mr. R.L. Khapre, Adv., for respondent Nos. 6 and 7.
Mrs. R.D. Raskar, Adv., for respondent no.8.

- - - -

**CORAM : A.B. CHAUDHARI AND
INDIRA K. JAIN, JJ.**

DATE : 27th August, 2015.

01. Heard learned counsel for the rival parties at length.

02. The principal grievance made by Mr. Jibhkate, learned counsel appearing for the Review Applicant – Sneha Shikshan Sanstha, Lakhori, Tq. Lakhani, Distt. Bhandara, through its Secretary Dashrath Tejram Girhepunje, is that the Review Applicant – Ssnastha was

not made a party to the Writ Petition No. 1272 of 2014 and, therefore, the judgment under review is required to be reviewed and set aside. He then submitted that on merits also, the judgment is required to be reviewed, because the issue about transfer of school attained finality upto this Court and, at any rate, the transfer, that was made in the year 2007, cannot be re-opened, as was sought and as directed by this Court by asking the Govt. to re-consider the whole matter. Mr. Jibhkate then submitted that there was an agreement earlier in the year 1999, on the basis of which, a grievance was made to the Govt., but it could not be entertained. He, therefore, submitted that there is an error apparent on the face of record.

03. Per contra, learned counsel Mr. Parsodkar for respondent no.1 and Mr. Khapre appearing for respondent nos. 6 and 7, have fully supported the contentions raised by Mr. Jibhkate, learned counsel for the Review Applicant. As against this, Mr. Parsodkar, learned counsel for the original petitioner, submitted that the issue about transfer of schools is required to be dealt with in accordance with law and the order under review is only in the nature of a remand order for fresh consideration by the Govt., which is the competent authority to look into the matter. Even according to Mr. Parsodkar, all the issues and points raised by Mr. Jibhkate, counsel for the Review Applicant, can be raised, all the more so because the Operative Part [d] of

the Judgment and Order shows that as respondent nos. 5 and 6 are running the schools, they would continue to run and shall not be disturbed.

04. We have heard learned counsel for the rival parties for quite some time. We have seen the Judgment and Order under review. We find from the Judgment under review that the order under challenge in the Writ Petition was dated 28th February, 2013 giving a reason that there was no provision for consideration of the grievance of the original petitioner. We disagreed with the same and stated in the Judgment and Order that the Govt. did issue a Govt. Resolution pursuant to the Division Bench Judgment of this Court in the subject-matter and, therefore, the impugned order in the Writ Petition was passed in ignorance thereof.

05. Now, the points raised by Mr. Jibhkate and Mr. Khapre are also relevant. But then all these points can very well be allowed to be taken in the matter after remand or when the Govt. takes up the matter for consideration in terms of Operative Part [c] of the judgment and order under review. We must, therefore, clarify that all the points raised by Mr. Jibhkate about the finality of the orders etc., so also the legal issues involved therein, including applicability or otherwise of the Govt. Resolution or the Division Bench Judgment, can well be gone into.

06. In this background, nothing further remains to be done. We, however, make it clear that the Govt. shall be at liberty to hear all the concerned parties including the affected parties or the representatives of students etc., as observed by us in the Division Bench Judgment dated 27th November, 2012 passed in Writ Petition No. 4200 of 2012. As far as the contention of Mr. Jibhkate that there was an agreement earlier in the year 1999, on the basis whereof, a grievance was made to the Govt., and it could not be entertained is concerned, we think the said point can also be considered by the Govt.

07. In the circumstances, Misc. Civil Application [Review] No. 264 of 2015 is disposed of with no order as to costs.

Judge

Judge

|Hedau|