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HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 80 of 2016

- Ambika Mission Boys Middle School Ambikapur, Through Its Manager Robert Tigga, S/o Abraham Tigga, Aged About 42 Years, R/o Ambikapur Mission Boys Hostel, Ambikapur, District Surguja Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Its Chief Secretary, Secretariat, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur Chhattisgarh
2. Principal Secretary, Department Of Education Govt. Of Chhattisgarh Secretariat, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur Chhattisgarh
3. Commissioner, Department Of Public Instruction, Govt. Of Chhattisgarh, Secretary, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur Chhattisgarh
4. District Education Officer, Ambikapur, District Surguja Chhattisgarh
5. Shri Anil Kumar Tirkey, S/o Augustine Tirkey, Retd. Teacher R/o Village Dhobipara, Fundurdehari, Ambikapur, Police Station And Post Ambikapur, Civil And Revenue Distict Surguja Chhattisgarh
6. Controlling Authority, Payment Of Gratuity Act, Ambikapur, Surguja , District Surguja Chhattisgarh, Under Payment Of Gratuty Act, 1972 Office Of Labour Officer, Ambikapur, Distt. Surguja, (Chhattisgarh)

---- Respondent

And

WPL No. 81 Of 2016

- Ambika Mission Boys Middle School Ambikapur, Through: Its Manager Robert Tigga, S/o Abgraham Tigga, Aged About 42 Years, R/o Ambika Mission Boys Middle School, Ambikapur, District Surguja, (Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through: Its Chief Secretary, Secretariat, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur, (Chhattisgarh)
2. Principal Secretary, Department Of Education, Govt. Of Chhattisgarh, Secretariat, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur, (Chhattisgarh)
3. Commissioner, Department Of Public Instruction, Govt. Of Chhattisgarh, Secretariat, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur, (Chhattisgarh)
4. District Education Officer, Ambikapur, District Surguja, (Chhattisgarh)
5. Smt. Mary Margarate Ekka, W/o Late Sylvanus Ekka, Retd. Teacher, R/o Village Muktipara, Fundurdehari, Ambikapur, Police Sataion And Post Ambikapur, Civil & Revenue District Surguja, (Chhattisgarh)
6. Controlling Authority, Payment Of Gratuity Act, Ambikapur, Surguja, District Surguja, (Chhattisgarh)

---- Respondents

For Petitioners	Shri Manoj Paranjpe, Advocate
For Respondent/State	Shri Shashank Thakur, GA
For Respondent No.5	Shri Shishir Dixit, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

27/04/2016

1. At the outset, Shri Shishir Dixit, learned counsel appearing for the respondent No.5, would pray for time to file return, however, considering the limited issue raised in these writ petitions, this Court proceeded to dispose of the matter finally.

2. These petitions are directed against the interim order passed by the Appellate Authority under the Payment of Gratuity Act rejecting the petitioners' application for impleadment of the State of Chhattisgarh on the ground that the petitioner institution being fully aided minority educational institution, the entire amount of gratuity payable to the employees/staff is to be reimbursed by the State Government.
3. The Appellate Authority has rejected the application for impleadment on the ground that only legal heirs can be substituted during the pendency of the appeal and new parties cannot be added.
4. True it is that impleadment of a new party at the appellate stage is ordinarily not allowed, however, considering the fact that the impleadment is not of any other entity which may protract the hearing of the appeal, but the impleadment is of State Government which according to the petitioner grants the aid even in respect of the amount of gratuity, impleadment of the State of Chhattisgarh would not prejudice the cause of the respondents. On the contrary, if the State is impleaded even at the appellate stage and ultimately it is found that the State is liable to provide grant in aid in respect of the subject amount of gratuity, it will be easier for the respondent employee to put the order in execution, therefore, it is for the benefit of all the parties concern and as such it would be in the interest of justice that the State is also impleaded before the Appellate Authority so that the litigation

may not protract or frustrated at a later stage.

5. In view of the above, the writ petitions are allowed. The Appellate Authority is directed to allow the petitioners to implead the State of Chhattisgarh through the concerned department and thereafter proceed to decide the appeal in accordance with law after noticing the State of Chhattisgarh. It is further directed that the steps for impleadment of the appellate authority and issuance of notice be completed within 30 days and thereafter the appeal be disposed of by the Appellate Authority within a further period of 4 months.
6. It is made clear that this Court has not expressed any opinion on the liability of the State Government in respect of providing grant in aid to the petitioner institution, which shall remain open to be adjudicated by the Appellate Authority.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

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