

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8732 of 2015

Sopan Namdeo Gholap

PETITIONER

VERSUS

The President, Bahujan Samaj Prabodhan
Shikshan Sanstha, Kotul and others

RESPONDENTS

Mr.M.B.Kolpe, Advocate for the petitioner.

Mr.D.V.Tele, AGP for respondent No.4.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 25/01/2016

ORAL JUDGMENT :

1. Learned Advocate for the petitioner has placed on record in the petition paper book the judgment delivered by this Court dated 29/07/2015 in a group of identically situated employees in Writ Petition Nos.485/2015, Balasaheb Ramchandra Burke Vs. The President Bahujan Samaj Prabodhan Shikshan Sanstha and connected matters.

2. He submits that the petitioner is identically placed as those petitioners in the group of cases. Their appeals before the School Tribunal were decided on 30/10/2014. The petitioner's appeal was also decided on the same date by the identical judgment. He was,

however, late in filing this petition which was lodged on 19/08/2015 after this Court had decided all the earlier petitions on 29/07/2015. He, therefore, submits that the same judgment can be made applicable to this petitioner.

3. Learned AGP on behalf of respondent No.4 confirms that this Court had delivered its judgment dated 29/07/2015 in identical circumstances. The petitioner has lagged behind only because he did not file this petition alongwith the others.

4. Mr.Kolpe further submits that though the Special Leave Petition has been filed by respondent Nos.1 and 2 Educational Society before the Apex Court for challenging the judgment of this Court dated 29/07/2015, same is still in objection category. Objections have not been removed and no orders have been passed by the Apex Court on the said SLP. Mere pendency of the SLP and that too in "objection category" cannot restrain this Court from considering this petition, moreso when the petitioner is identically situated.

5. I find that this Court had issued notice to the respondents on 26/08/2015. The Educational Society was served as indicated from

the office report dated 16/09/2015. None appeared for the respondent /Institution on 07/12/2015. By putting the respondent / Institution to notice, matter was adjourned to 21/12/2015. Even then, none appeared for the Institution even on 21/12/2015.

6. Hence the matter was adjourned to 19/01/2016. Even on 19/01/2016, none appeared for the Institution. Following order was passed on 19/01/2016 :-

“1. Despite court service being complete, respondent Nos. 1 to 3 have not entered an appearance, either through an Advocate or in person. This matter was adjourned on 07/12/2015 to enable these respondents to participate in these proceedings. None appeared on 07/12/2015, 21/12/2015 and even today.

2. Stand over to 25/01/2016.

3. If respondent Nos. 1 to 3 choose to remain absent, this petition would be considered without the assistance of the respondents.”

7. Even today, despite numerous opportunities, none appears for respondent Nos. 1 to 3.

8. I have considered the submissions of the learned Advocates for the petitioner and the learned AGP. The SLP said to have been filed by the Institution is in the “objection category” as per the statement

of the petitioner. Identical cases were decided by this Court by judgment dated 29/07/2015. The respondent/Management has consistently remained absent and did not appear to oppose this petition inspite of several opportunities granted.

9. In the light of the above, akin to the judgment delivered on 29/07/2015 and for the same reasons, I am passing an identical order as under :-

- [a] This petition is allowed.
- [b] The order of oral termination dated 15/07/2008 is quashed and set aside.
- [c] The petitioner is granted reinstatement with continuity and 60% back wages as like the petitioners in the case of Balasaheb Ramchandra Burke (supra)
- [d] The respondent/Management shall pay the back wages within 12 (twelve) weeks from today.
- [e] The judgment of the School Tribunal dated 30/10/2014, being perverse and erroneous, is quashed and set aside.

(RAVINDRA V. GHUGE, J.)