

waives service of notice for Respondent No. 4. By consent of parties, petition is taken up for final hearing.

2. Two unfortunate teachers who are victims of rivalry between the two groups of Respondent No. 5 – Janta Shikshan Sanstha, Pune, have approached this Court praying for a declaration that the transfer orders issued by one of the groups are not valid and consequently for a direction to the Respondent Management to submit a proposal to the Respondent No. 1 for payment of their unpaid salary. However, during the pendency of the petition, both the Petitioners have superannuated and therefore, they have also prayed that the Respondent Management be directed to submit the proposal for grant of their terminal and pensionary benefits to Respondent No. 1.

3. It appears that Petitioner No. 2 was appointed on 4th July, 1984 after following due process. After he rendered service of about 30 years service, he was promoted as Assistant Head Master on 1st of August, 2013. However, it appears that on 18th November, 2014, one of the groups of Respondent Management issued an order transferring him from Shivaji Vidyamandir Aundh to Shivaji Vidya Mandir Chakan.

4. Petitioner No. 1 was working as Principal of Shivaji Vidya Mandir, Aundh as on 25th May, 2011. Vide order dated 26th November, 2014 her services came to be transferred to Shri Radhey Krishan Vidyalaya, Perane.

5. It is contention of the Petitioners that the transfer orders were issued by the persons who were not competent to issue, inasmuch as the persons who had issued the transfer orders did not find place in Schedule- I of the Bombay Public Trust Act, 1950. It is further contention of the Petitioners that the group, whose name reflected in Schedule-I of the said Act, directed the Petitioners in writing not to obey the orders issued by the other group and further directed the Petitioners to continue in the same school.

6. It further appears that the dispute with regard to the Management of Respondent No. 5 had been pending since long. The dispute came to this Court by way of Writ Petition (St.) No. 8742 of 2016 has been ultimately decided on 16th June, 2016.

7. The perusal of the judgment and order of this Court dated 16th of June, 2016 would reveal that the learned Single Judge of this

Court held that at the relevant time the Management, which directed the Petitioners to continue at the respective places, was the Management which was legally entitled to do so.

8. In any case, we are of the considered view that on account of the dispute between two rival groups, the Petitioners / teachers should not be unnecessarily victimised. Undisputedly, their initial appointments were made after following due process of law and after rendering services for decades together they have been superannuated. We are of the considered view that the period, during which they were not permitted to work on account of transfers, cannot be excluded from the period of their qualifying service. We therefore, find that the petition needs to be allowed with following directions:

- (i) Respondent No. 5 is directed to submit a proposal to the Respondent No. 1 for arrears of salary and for payment of terminal as well as pensionary benefits to the Petitioners, treating that the Petitioners have superannuated from the schools where they were working, prior to issuance of order 18th November, 2014 and 26th November, 2014.

- (ii) The said proposal shall be submitted by the Secretary of Respondent No. 5 within a period of three weeks from today to Respondent No. 1. The Petitioners shall remain present in the office of Respondent No. 5 on 7th August, 2017 and sign all the documents, that are required to be submitted.
- (iii) Upon receipt of such proposal, Respondent No. 1 shall ensure that arrears of salary are paid to the Petitioners, and their pensionary and terminal benefits are finalised within a period of three months from the date of receipt of the proposal from Respondent No. 5.

Rule is made absolute in the aforesaid terms with no orders as to costs.

Sd/-
[RIYAZ I. CHAGLA, J.]

Sd/-
[B. R. GAVAI, J.]

Vinayak Halemath