

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.510 OF 2008

IN

WRIT PETITION NO.2745 OF 2004

Secretary, The Bombay

St.Xavier's College Society & Anr. ... **Appellants**

V/s.

Anwar Hasan Bhombal & Ors. ... **Respondents**

.....

Mr.Arvind G. Kothari, Advocate for the Appellants.

Ms.G.R.Shastri, AGP for the Respondent/State.

....

**CORAM : V. M. KANADE &
A. M. BADAR JJ.**

DATED : 7th June 2017.

P.C.

1 The appellant is before this Court by this appeal against the impugned order passed by the learned Single Judge dated 11th March 2008. By the said order, the learned Single Judge has held that appointment as Vice-Principal is not a minority right.

2 It is admitted position that respondent Nos.1 and 2 have retired after they attained the age of superannuation. That being the position, the appeal has practically become infructuous.

3 The learned counsel appearing on behalf of appellant submits that observations made by the learned Single Judge in paragraph Nos.5 to 8 and 18 will come in his way in other matters since the learned Single Judge has interpreted Section 3(2) of the Maharashtra Employees of Private Schools (Conditions of service) Regulation Act, 1977. He submitted that the said interpretation is not correct.

4 In our view, since contesting parties have already retired, no useful purpose will be served in deciding the case again on merit. We are, therefore, of the view that appeal can be disposed of by making an observation that finding recorded by the learned Single Judge on the basis of reasons given in paragraph 5 to 8 and 18 do not lay down interpretation of Section 3(2) and said observation therefore, should not be treated as precedent. As and when this issue come up for consideration in any other matter, the same may be decided afresh by ignoring the observations made by the learned Single Judge in paragraph Nos.5 to 8 and 18.

5 Appeal is accordingly disposed of.

(A. M. BADAR J.)

(V. M. KANADE J.)