

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 9386 OF 2015

Sunanda Parmeshwar Mali

... Petitioner

Vs

1 Lions Club Primary School & Ors.

... Respondents

Mr. I.M. Khairadi for the Petitioner.

Mrs. R.M. Shinde, AGP, for the Respondent-State.

Mr. C.M. Lokesh for the Respondent Nos.1 and 2.

Mr. Anand S. Kulkarni for the Respondent Nos.3 & 4.

Mr. R.V. Govilkar for the Respondent No.7.

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

THURSDAY, 13TH DECEMBER, 2018

P.C. :

1 Mr. Khairadi says that bearing in mind the reliefs claimed in prayer clauses (b) and (c) of the writ petition, presently the petitioner has decided not to press them. The petitioner and respondent Nos.1 and 2, who are private parties / School Management, have arrived at an amicable settlement.

2 The petitioner has given up the claims against the respondent Nos.7 and 8. Thereafter, the Consent Terms, reduced into writing, record the arrangement between the two private parties.

3 The two private parties would then forward the proposal to the respondent Nos.3 and 5, who are the repository of statutory powers and/or entrusted with public duty and all that the petitioner now requests is that they should take an expeditious decision on the proposal which is forwarded by the Management to them.

4 When the Consent Terms were perused by us with the assistance of Mr. Khairadi, we brought to his notice clause 3 thereof. We also indicated to him that such a stipulation as is recorded by two private parties in the Consent Terms drawn between themselves, would never bind a public body or a statutory authority. They cannot be directed to pass a particular order or exercise their discretion in a particular manner. Their autonomy independence and freedom to exercise the statutory

power, which is discretionary in nature, cannot be thus controlled. After this was brought to the notice of Mr. Khairadi and equally Mr. C.M. Lokesh appearing on behalf of the respondent Nos.1 and 2, it is conceded that the parties never intended to bind the statutory or public bodies with the arrangement recorded *inter-se* between them.

5 In the above circumstances, by clarifying that respondent Nos.3 and 5 are expected to pass such orders on the pending proposals as are permissible in law, we take the Consent Terms on record.

6 On a perusal thereof, we find that a dispute which is private in nature and a right conferred, though under the statute, but personal in nature, all issues in relation thereto are mutually settled. This was a dispute as between two private parties and after prolonged negotiations and discussions they have settled the same in the manner recorded in these Consent Terms. The Consent Terms do not contravene any provision of law and public policy. Further, after understanding all the consequences and implications of such terms, particularly in law, both sides have

signed the Consent Terms. The Consent Terms, with all the above, have been explained and interpreted to them. They have been perused by them. There are no allegations of any fraud or coercion and once the terms are signed willingly, we have no hesitation in taking them on record.

6 The writ petition is disposed of in terms of these Consent Terms. There will be no order as to costs. This order is passed in the presence of the petitioner and the respondent No.2.

SMT. BHARATI H. DANGRE, J.

S.C. DHARMADHIKARI, J.