

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

**REVIEW PETITION NO. 166 OF 2006
IN
WRIT PETITION NO. 5105 OF 2005**

Walchandnagar Industries Ltd.

.....Petitioner

v/s.

Dattatray N. Raut and ors.

.....Respondents

Mr. Rahul Nerlekar for the Petitioner in RPW.

Ms. P.N. Diwan, AGP for the State / Respondent Nos.5 to 7.

**CORAM: A.A. SAYED, AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE : 21st JANUARY, 2020.

P. C. :-

. The Review Petition seeks review of the order dated 29/08/2006 passed by this Court (Coram : R.M.S. Khandeparkar & Naresh H. Patil, JJ.) in the Writ Petition.

2. The Review Petition was listed yesterday. However, none appeared on behalf of the Respondent Nos.1 to 3. The matter was thereafter kept back. Since none appeared in the afternoon session also, the matter was adjourned till today. Today also when the matter is called out, none appears on behalf of the Respondent Nos.1 to 3.

3. Learned Counsel for the Review Petitioner submitted that while allowing the Petition on 29/08/2006, the Counsel for the

Review Petitioner (Respondent No.5 in the Writ Petition) was not present and it was not pointed out to the Court that the issue as regards payment of gratuity to teachers was covered by the decision of the Apex Court in the case of ***Ahmedabad Pvt. Primary Teachers' Assn. v/s. Administrative Officer and Others (2004) 1 SCC 755.***

4. We have perused the above judgment of the Apex Court. In paragraph 25 of the judgment, the Apex Court has held that teachers are not covered under the definition of employee under Section 2(e) of the Payment of Gratuity Act, 1972.

5. Learned Counsel for the Petitioner pointed out that the subsequent amendment to the Payment of Gratuity Act, 1972 of the year 2009 does not apply to the case of the Petitioners. He further pointed out that in any event that amendment is also repealed in the year 2016.

6. In the circumstances, we allow the Review Petition in terms of prayer clause (A) which reads as under :-

" A. This Honourable Court be pleased to Review & recall its order dated 29 August 2006 passed in Writ Petition No. 5105 of 2005 in view of the decision of Honourable Supreme Court in the case of Ahmedabad Private Primary Teachers Association versus Administrative Officer and others (2004 1 SCC 755) . "

7. Since the Review Petition is allowed, the Writ Petition No.5105/2005 shall stand dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)