

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION Nos.26 AND 27 OF 2020
IN
LETTERS PATENT APPEAL NO.43 OF 2003
IN
WRIT PETITION NO.1936 OF 1993 (D)

Ramchandra Suryabhan Gangane (deceased) Thr. L.R Pramilabai wd/o Ramchandra Gangane
and ors.

-vs-

Chairman Shri Sonaji Maharaj Education Society, Sonala, Ta. Sangrampur, Dist. Buldhana and
ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S. T. Harkare, Advocate for applicants.

CORAM : R. K. DESHPANDE AND
A. S. CHANDURKAR, JJ.
DATE : January 10, 2020

Civil Application No.27/2020 is filed by the original appellant for setting aside the order of dismissal of Letters Patent Appeal dated 07/11/2019 in the absence of counsel for the appellant. There is delay of 42 days caused in filing such application and hence Civil Application No.26/2020 has been filed.

2. In view of the fact that none appeared for the appellant when the matter was finally decided by this Court on 07/11/2019 we permitted the learned counsel to argue the matter on merits. We asked the learned counsel as to how

the findings recorded in the judgment in Letters Patent Appeal are wrong or whether there is any error apparent on the face of the record. It is his submission that the ground of challenge is not enlisted in the list of findings recorded but the main ground is that certain arguments were not considered which ought to have been adverted to.

3. The learned counsel for the appellant invited our attention to paragraph 17 of the decision of the School Tribunal rendered on 06/07/1993 in Appeal No.199/1992A wherein the Tribunal expressed as under :

“ .. It would be legal and proper to remand the matter back to the Enquiry Committee. However, it is not possible for me to remand back the matter to the enquiry for the reason that the Honourable High Court of Judicature at Bombay, Nagpur Bench Nagpur in Writ Petition No.225 of 1993 has directed the Tribunal to decide the matter within three months”.

4. The learned counsel submits that it was a case of remand of the matter for conducting fresh enquiry but this aspect was not brought to the notice of this Court when the Letters Patent Appeal was heard as the counsel appearing for the appellant was not present.

5. We asked the learned counsel to point out to us from the decision of the Tribunal, the basis to hold that it is a case for remand of the matter back to the Enquiry Committee. The learned counsel could not point out to us any finding recorded by the Tribunal holding that the conduct of enquiry was vitiated either for violation of the principles of natural justice or statutory provisions. We also do not find any basis for recording such finding by the Tribunal. The learned Single Judge while deciding the writ petition clearly observed that on consecutive four days Ramchandra and his representative did not attend the enquiry and it cannot be said that the petitioner Ramchandra was not given reasonable opportunity by Enquiry Committee to defend himself. All these arguments are properly considered by the learned single Judge. Hence in addition to the grounds which we have recorded in the earlier judgment, we do not find any substance in the additional ground which is raised before this Court. Both the Civil Applications are therefore dismissed.

JUDGE

JUDGE