

Úa SLP(C) Nos. 17669-17671 of 2014

ITEM NO.12

COURT NO.6

SECTION XV

S U P R E M E C O U R T O F
R E C O R D O F P R O C E E D I N G S

I N D I A

Petitions for Special Leave to Appeal (C) Nos. 17669-17671/2014

(Arising out of impugned final judgment and order dated 02/08/2013 in DBCWP No. 3480/2012, DBCWP No. 5641/2012 and order dated 29/11/2013 in DBCMR No. 193/2013 and order dated 17/01/2014 in DBCMR No. 192/2013 in DBCWP No. 5641/2012 and DBCWP No. 3480/2012 passed by the High Court of Judicature for Rajasthan at Jaipur)

SOBHAGYA SINGH SHEKHAWAT & ORS.

Petitioner(s)

VERSUS

STATE OF RAJASTHAN & ORS. ETC. ETC.

Respondent(s)

(With application for condonation of delay in filing SLP and office report)

Date : 12/05/2016 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s)

Mr. Shakil Ahmed Syed, A.O.R.
Mr. Mohd. Parvez Dabas, Adv.
Mr. uzmi Jameel Hussain, Adv.

For Respondent(s)

For State

Ms. Kiran Bala Sahay, Adv.
Ms. Priyadarshni Priya, Adv.
Ms. Priyanka, Adv.
Ms. Ruchi Kohli, A.O.R.

For School Mgmt.

Mr. Dushyant Parashar, A.O.R.

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

Signature Not Verified

Digitally signed by
KALYANI GUPTA

Applications seeking exemption from filing

Date: 2016.05.16

11:42:04 IST

Reason:

official translation and certified copy of the

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impugned judgment are allowed.

Heard Mr. Shakeel Ahmad Syed for the petitioners, Mr. Dushyant Parashar, learned counsel for the School Management and Ms. Kiran Bala Sahay, learned counsel for the State.

The Special Leave Petitions are directed against the order of the Division Bench dated 2nd August, 2013, and the order under review dated 29th November, 2013 and 17th January, 2014.

The petitioners are all teachers working in the fifth respondent-School. It is run by a Trust from the year 1934. The grievance of the petitioners came to lime light when the fifth respondent-School which had been getting a grant-in-aid from the State Government volunteered to the State Government not to sanction the grant-in-aid, apparently for reasons that it had its own problem and difficulties in running the institution. Such claim on behalf of the fifth respondent-School was not immediately acceded to by the State Government. Correspondence was going on as between the School and the State Government from 10th January, 2008 onwards but yet it transpired that

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till date there was no positive order of the State Government stating that the grant-in-aid was stopped.

In fact when the petitioners approached the High Court by way of a writ petition expressing their grievances towards the move of the fifth respondent school which sought for the stoppage of the grant, the learned Single Judge by his order dated 2nd November, 2011 passed the following

order:-

"This is a matter which the State Government ought to consider in the first instance. The petitioners in fact may be justified in submitting that as their school in which they were appointed received grant-in-aid for a long time and more particularly on the sanctioned posts to which they came to be appointed, the State Government ought to consider their case for absorption under the Rules, 2010. I am thus of the view that the petitioners ought to make a detailed representation to the Director, Secondary Education, Rajasthan, Bikaner setting out the relevant facts along with a certified copy of this order. On such representation being submitted, the Director Secondary Education, Rajasthan, Bikaner shall pass a reasoned order thereon within a period of four weeks of the submission of such representation."

Thereafter, at the instance of the teachers, the Division Bench passed the impugned orders in the appeal as well as in the review petitions. In the present, we are not traversing the

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sustainability or otherwise of the impugned judgments, inasmuch as, we feel that as on date when the petitioners continue to serve the fifth respondent-School as teachers and thereby the students studying in the school are benefitted by their service, we feel that the salary entitlement as was paid to them prior to 1st April, 2008 should continue to be maintained till an amicable solution is worked out for the past period and also as to how far the direction issued by the learned Single Judge in the above extracted portion can be achieved to ensure that the fifth respondent-Institution continue to function and that every possible support is extended to the institution by the State Government primarily in

the interest of school going children of the town
in which the school is located.

With that perspective in mind, we considered
the restoration of salary payable to aided
sanctioned posts for the petitioners as well as the
other similarly placed teachers who are
governed by Rule 2(g) of the Rajasthan Voluntary
Rural Education Service Rules, 2010 and proceed to,

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pass this interim order:-

(i) The fifth respondent-school is directed to
restore the salary as per the scale applicable to
sanctioned post of aided teacher for th
petitioners as well as the other similarly placed
teachers who were in receipt of such salary prior
to the stoppage of such payment as from 1st April,
2008 and who fell within the definition o
'employee' as per Rule 2(g) of Rajasthan
Non-Government Educational Institutions
(Recognition, Grant-in-aid and Service Conditions
etc.) Rules, 1983. Such restoration of the salary
shall be given effect to from the month of April,
2016.

(ii) In order to comply with the abov
direction in paragraph (i), we direct the fifth
respondent-School to forward necessary proposals to
the State Government namely, the respondent Nos. 1
to 3 herein within two weeks from this date.

such proposal being forwarded by the fifth respondent-School and based on the proposal to be submitted by the fifth respondent-School, the respondent Nos. 1 to 3 are directed to take

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required necessary steps to sanction the aid and ensure such aid is granted and forwarded to the fifth respondent-School Management within two weeks thereafter to enable the school to pay the salary to them positively.

(iii) The fifth respondent-School as well as the respondents 1 to 3 are directed to consider the direction of the learned Single Judge as extracted in the above paragraph and submit its response as to the manner in which the direction of the learned Single Judge can be worked out. Such response shall be filed by the fifth respondent Nos. 1 to 3 as well as the respondent-School on the next date of hearing.

(iv) Restoration of the grant-in-aid for the period from 1st April, 2008 upto March, 2016 will be considered based on the proposal to be submitted by the fifth respondent-School. The above response shall be filed by respondent Nos. 1 to 3 and the fifth respondent-School by 12th July, 2016.

It is needless to state that the respondent Nos. 1 to 3 and the fifth respondent should ensure that the salary as is payable to a aide

sanctioned posts should be paid to the teachers
namely, the petitioners as well as the similarly
placed teachers covered by Rule 2(g) from the month
of April, 2016 without any default.

List on 12th July, 2016.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER