

ITEM NO.10

Court 6 (Video Conferencing)

SECTION IX

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

Petition(s) for Special Leave to Appeal (C) No.9064/2020

(Arising out of impugned final judgment and order dated 19-12-2019 in WP No. 1529/2019 passed by the High Court of Judicature at Bombay at Aurangabad)

KHAN IMRAN & ORS.

Petitioner(s)

VERSUS

GULSHAN SHIKSHAN PRASARK MANDAL & ORS.

Respondent(s)

Date : 29-10-2020 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MS. JUSTICE INDU MALHOTRA  
HON'BLE MS. JUSTICE INDIRA BANERJEE

For Petitioner(s) Mr. Ajay Deshpande, Adv.  
Mr. Shashibhushan P. Adgaonkar, AOR

For Respondent(s)

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

- 1 Mr Ajay Deshpande, learned counsel appearing on behalf of the petitioner with Mr Shashibhushan P Adgaonkar, learned counsel assailed the judgment of the Aurangabad Bench of the High Court of Judicature at Bombay on two counts:
  - (i) The High Court has granted only 50% back wages despite the fact that the enquiry officer (who was appointed in pursuance of an order of this Court dated 23 April 2018) absolved the employees of the charges in the disciplinary enquiry; and

(ii) The High Court has directed the management to take a decision on the manner in which the period between the date of the order of suspension and reinstatement should be treated.

- 2 Learned counsel submitted that the employees had filed an affidavit before the High Court stating that they were not gainfully employed during the period when they were out of work. Moreover, it is submitted that though the High Court has reduced the quantum of back wages on the ground of financial stringency, no affidavit was filed by the Management before the High Court in support of the submission of financial stringency. On the second aspect, it has been submitted that it is a miscarriage of justice to direct the Management to take a decision on the manner in which the period of suspension should be treated when the enquiry officer has absolved the petitioners of the charges of misconduct. Finally, it has been submitted that though the petitioners have been reinstated on 7 October 2019, they have not been paid their salary.
- 3 We are of the view that the above grievances can appropriately be addressed before the High Court in a review petition. Should the petitioners file a review petition before the High Court within a period of four weeks from today, we request the High Court to entertain the petition and to take a considered view on the merits of the specific submissions which have been urged before this Court, as noted above. The High Court shall dispose of the review petition expeditiously. We clarify that we have not expressed any opinion on the merits of the above submissions which shall be dealt with by the High Court if a review petition is filed.
- 4 The Special Leave Petition is disposed of in the above terms.
- 5 Pending applications, if any, stand disposed of.

**(CHETAN KUMAR)**  
**A.R. - cum - P.S.**

**(SAROJ KUMARI GAUR)**  
**Court Master**