

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Miscellaneous Application No 678 of 2020**

**In**

**Civil Appeal No 8601 of 2017**

**Shree Shivaji Education Society Through  
Its Chairman and Another**

**Applicants**

**Versus**

**State of Maharashtra and Others**

**Respondents**

**ORDER**

- 1 The miscellaneous application seeks clarification of the order dated 6 July 2017. The applicant seeks a formal inclusion also of Special Leave Petition (Civil) No 57 of 2016 on the ground that it was a part of the same batch where arguments were heard and judgment was reserved. Of the two cases between the same parties, a reference has been made to one and inadvertently the second remained to be included in the final order. The circumstances in which the miscellaneous application has been filed will be set out hereafter.
- 2 On 2 March 2020, notice was issued on the MA, returnable in four weeks and Dasti service was permitted. Mr. Ravindra Keshavrao Adsure, learned counsel appearing on behalf of the applicant, Shree Shivaji Education Society states

that apart from serving the private respondent Dasti, an additional copy has been served on the learned counsel who was appearing on his behalf in pursuance of the liberty granted on 2 March 2020. Thereafter, though the proceedings were listed on 17 February 2020, 24 February 2020 and 5 March 2020, no appearance has been entered on behalf of the private respondent. Mr Rahul Chitnis, learned counsel has entered appearance on behalf of the State of Maharashtra.

- 3 The third respondent was recruited in a post reserved for the Scheduled Tribes by the applicant-Management in the school conducted by it. The Caste Scrutiny Committee invalidated his claim to belong to a Scheduled Tribe on 23 April 2008. Consequently, the management of the school terminated his services on 12 May 2008. The third respondent challenged the termination in Writ Petition No 1740 of 2009.
- 4 The High Court by its judgment dated 15 December 2015 confirmed the order of the Scrutiny Committee dated 23 April 2008 invalidating the caste claim, but granted him protection of service.
- 5 In the meantime, the State Government had also issued letters dated 14 May 2009, 19 January 2011, 2 February 2011 and 8 March 2011 directing the school Management to protect the services of the third respondent. The Management filed Writ Petition No 1324 of 2011 before the High Court challenging the government directions. However, the High Court dismissed the writ petition by an order also dated 15 December 2015. Thus on 15 December 2015, both the writ petitions - Writ Petition No 1740 of 2009 filed by the third respondent challenging the order of termination and the

invalidation of his caste claim, as well as Writ Petition 1324 of 2011 filed by the Management challenging the directions of the State Government to grant protection of service were considered by the High Court. The Management's writ petition was dismissed. The third respondent's writ petition resulted in a direction for protecting his services though his caste claim stood invalidated.

6 Aggrieved by the order of the High Court, the Management preferred two special leave petitions. Special Leave Petition (Civil) 57 of 2016 arose from the order of the High Court in Writ Petition No 1740 of 2009 granting protection of service to the third respondent. Special Leave Petition (Civil) No 289 of 2016 arose from the dismissal the Writ Petition No 1324 of 2011 filed by the Management challenging the directions of the State Government to grant protection of service.

7 Both sets of special leave petitions filed by the Management were part of a batch of matters which eventually resulted in the decision of this Court in ***Chairman and Managing Director, Food Corporation of India vs Jagdish Balaram Bahira*** (2017) 8 SCC 670. The specific facts of the present case are adverted to in paragraph 91 of the judgment. Annexure A-7 to the miscellaneous application which contains a record of the proceedings before this Court on 1 February 2017, indicates that arguments were heard and judgment reserved on a batch of matters. This included both SLP(C) No 289/2016 and SLP(C) No 57/2016. However, while formally disposing of the batch of cases, the order of this Court in paragraph 91 only refers to Civil Appeal No 8601 of 2017 arising out of SLP(C) No 289/2016. The civil appeal was allowed and the judgment and order of the High Court dated 15 December 2015 was set aside. However, a formal reference to the

companion special leave petition has remained to be included.

8 In view of the above narration, it is clear that both the special leave petitions filed by the Management were, as a matter of fact, listed before this Court and were part of the group of matters on which judgment was reserved. The same issue was involved in regard to whether the respondent could lawfully be granted a protection of service despite the invalidation of his caste claim. However, a formal reference to one of the two special leave petitions, SLP(C) No 57 of 2016 has remained to be included. Accordingly, the directions contained in paragraph 91 of the judgment of this Court reported in (2017) 8 SCC 670, shall stand formally clarified in the following terms:

- (i) Leave is granted in Special Leave Petition (Civil) No 57 of 2016. The Civil Appeal arising out of SLP (Civil) 57 of 2016 is allowed in terms of the main judgment. The judgment of the High Court dated 15 December 2015 in Writ Petition No 1740 of 2009 shall stand set aside. The writ petition filed by the third respondent shall stand dismissed.
- (ii) This shall be in addition to the directions which have been passed in regard to Civil Appeal No 8601 of 2017 in paragraph 91 of the judgment dated 6 July 2017 in ***Chairman and Managing Director, Food Corporation of India vs Jagdish Balaram Bahira***, as noted above.
- (iii) Consequently, Civil Appeal No 8601 of 2017 filed by the Management shall stand allowed and the judgment of the High Court dated 15 December 2015 in Writ Petition No 1324

of 2011 shall stand set aside. The directions which were issued by the State Government to the Management for protecting the services of the third respondent shall accordingly stand set aside.

9 The Miscellaneous Application is accordingly disposed of.

10 Pending applications, if any, stand disposed of.

.....J.  
**[Dr Dhananjaya Y Chandrachud]**

.....J.  
**[M R Shah]**

New Delhi;  
March 15, 2021  
CKB

ITEM NO.26

Court 6 (Video Conferencing)

SECTION III

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

Miscellaneous Application No.678/2020 in C.A. No.8601/2017

SHREE SHIVAJI EDUCATION SOCIETY THR.  
ITS CHAIRMAN & ANR.

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

Date : 15-03-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s)

By Courts Motion

Mr. Yogesh Ramesh Joshi, Adv.  
Mr. Vinod Lohia, Adv.  
Mr. Yash Prashant Sonawane, Adv.  
Mr. Sideshwar Namdeo Biradar, Adv.  
Mr. Ravindra Keshavrao Adsure, AOR

For Respondent(s)

Mr. Rahul Chitnis, Adv.  
Mr. Sachin Patil, AOR  
Mr. Aaditya A. Pande, Adv.  
Mr. Geo Joseph, Adv.

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

- 1 The Miscellaneous Application is disposed of in terms of the signed order.
- 2 Pending applications, if any, stand disposed of.

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

(SAROJ KUMARI GAUR)  
Court Master

(Signed order is placed on the file)