

## **Arya Vidya Sabha, Kashi And Anr. vs Krishna Kumar Srivastava And Anr. on 26 February, 1976**

**Equivalent citations:** AIR1976SC1073, 1976LABLC698, (1976)IILLJ95SC, (1976)3SCC83, 1976(8)UJ282(SC), AIR 1976 SUPREME COURT 1073, 1976 3 SCC 83, 1976 LAB. I. C. 698, 1976 (1) SCWR 257, 1976 (1) LABLN 493, 1978 U J (SC) 282, 1976 (1) SCJ 425, 1976 2 LABLJ 95, 32 FACLR 408, 1976 UJ (SC) 282

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**Bench:** N.L. Untwalia, V.R. Krishna Iyer

### JUDGMENT

V.R. Krishna Iyer, J.

1. The appellant who has come up to this Court by special leave challenges the judgment of the High Court whereby the first respondent's dismissal which had been set aside by the trial court, has been restored. The first respondent was a head-clerk in the Dayanand Mahavidyala Degree College, Varanasi, an institution affiliated to the Banaras Hindu University. The controversy raged round the question as to whether re-instatement could be ordered of a servant who has been dismissed by the College authorities on the footing that the institution is a statutory body. Whatever might have been the prior state of the precedents, in the light of the decision in Executive Committee of Vaish Degree College Shamli and Ors. v. Lakshmi Narain and Ors. (1) we are satisfied that the institution which is the appellant before us is not a creature of statute but an entity like a company or a co-operative society or other body which has been created under the operation of a statute. This makes all the difference as has been pointed out by the majority decision in Lakshmi Narain's case. May be, there is much to be said in favour of the opposite view set out by Shri Justice Bhagwati, but we are bound by the decision of the Court as expounded by the majority view. The distinction sought to be made by counsel to the effect that the statutes and ordinances with which we are concerned stand on a different footing from the ones considered by this Court in Lakshmi Narain's case does not impress us. In this view, the appeal has to be allowed and we do so.

2. The parties will bear their costs in all the courts; but, having regard to the circumstances that the first respondent has put in long years of service and having an overall view of the facts of the case, counsel for the appellant, at our suggestion, has undertaken to pay a sum of Rs. 5,000/- to the 1st respondent and a sum of Rs. 1500/- towards costs of counsel for the 1st respondent. These payments are made ex ratia and counsel for the appellant wanted us to take note of the circumstance that according to his instructions the 1st respondent has been gainfully employed otherwise, the

truth of which need not be investigated here. The payments will be made within two weeks from to-day.