Maharashtra University Of Health ... vs Satchikista Prasarak Mandal & Ors on 25 February, 2010

Equivalent citations: AIR 2010 SUPREME COURT 1325, 2010 (3) SCC 786, 2010 AIR SCW 1923, 2010 (3) AIR BOM R 439, (2010) 5 MAH LJ 33, (2010) 2 SERVLR 482, (2010) 2 SCALE 672, (2010) 3 SERVLJ 449, (2010) 2 SCT 483, (2010) 124 FACLR 1082, (2010) 4 MAD LJ 148, (2010) 2 BOM CR 783

Bench: G.S. Singhvi, Asok Kumar Ganguly

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2050 OF 2010
(Arising out of SLP(C) No.15458 of 2007)

Maharashtra University of Health
Sciences & others ..Appellant(s)

Versus

Satchikitsa Prasarak Mandal & others ..Respondent(s)

J U D G M E N T

GANGULY, J.

1. Leave granted.

2. Maharashtra University of Health Sciences through its Registrar and its Grievance Committee and Management Council as appellants impugn the judgment dated 8.6.07 rendered by the Nagpur Bench of Bombay High Court on several writ petitions filed by the Management Council and the employees.

3. The basic facts of the case are as under:

The appellant No.1, the Maharashtra University of Health Sciences has been constituted under Maharashtra University of Health Sciences Act, 1998 (for short `the said Act'). The 2nd appellant is the Committee constituted under Section 53 of the said Act and the 3rd appellant is the Management Council of the appellant No.1 and also constituted under the said Act.

4. The 1st respondent in this appeal is a public trust registered under the Bombay Public Trust Act, 1950 and the said trust runs several colleges including the 2nd respondent. The 3rd respondent is the Principal of the said college and the 4th respondent is a Lecturer therein. Both the 5th and 6th respondents were appointed Lecturers in the said college but their appointments were not approved but they continued to work as lecturers in the said college.

5. On 7.8.05 a representation was made by the 5th respondent to the effect that after she had served the said college for the last three and a half year suddenly she was informed on 6.8.05 that the college authorities accepted her resignation. That was shocking to her since the 5th respondent could never resign as she had several liabilities and had no other income. The education of her two children had to be looked after while her husband was disabled in view of an accident and her father-in-law was a retired person. In her representation to the Vice Chancellor of the appellant-University she stated that at the time of her appointment, college authorities took her signature on a resignation letter without mentioning any date and that might have been used to remove her from the college. The University on receipt of the said representation sent a letter to the said college on 19th August, 2005 for its explanation and explanation was submitted by the said college on 31.08.05.

6. Thereafter, the appellant-University formed a Committee to look into the grievance of the 5th respondent and the said Committee after visiting the college and conducting an enquiry on 29.08.05, 01.09.05 and 02.09.05 submitted its report to the appellant-University.

7. Again on 09.09.05, the 5th respondent submitted another representation to the Grievance Committee of the appellant-University which was also forwarded to the said college for its response. That was submitted by the said college on 04.10.05 and 08.11.05. Thereafter, the appellant-University gave the 5th respondent a hearing in respect of her complaint which she raised in her representation. The said meeting was held before the Grievance Committee and the Grievance Committee gave a detailed report on the basis of its enquiry. Before the report was given, the 5th respondent and the person against whom complaint was lodged were examined along with some witnesses. Thereafter, the Grievance Committee took a decision to refer the matter to the State Commission for Women for further investigation and it was decided that the report of the said Commission was to be considered in the next meeting of the Committee.

8. Thereafter, on 18th January, 2006 the 6th respondent lodged a further complaint with the police station Sadar against the 4th respondent as a result of which offence punishable under Section 509 of I.P.C was registered against the 4th respondent and the Summary Criminal Case No.4332/06 was registered in the Court of J.M.F.C., Nagpur. On 19.01.06, 5th respondent also lodged report with the police station and on the basis of the said report an offence came to be registered on 04.02.06 vide

Crime No.22/06 under Sections 468, 471, 354, 509, 506 read with Section 34 of the Indian Penal Code. In connection with the aforesaid criminal case, the 3rd and 4th respondents were arrested by the police on 05.02.06 and were remanded to police custody for two days. They were granted bail by the Court of J.M.F.C., Nagpur on 08.02.06. The Principal of the college was also granted anticipatory bail on 06.02.06 and which order was subsequently confirmed on 23.02.06.

9. Then on 18.02.06, the services of the 6th respondent were terminated by the said college.

10. In view of the complaint of the 6th respondent, the University called the 1st, 2nd and 4th respondents for hearing on 08.03.06 before the Grievance Committee and on 04.03.06 the 6th respondent sent a complaint to the appellant- University seeking action against the respondents. In that complaint the 6th respondent gave details of ill-treatment and sexual harassment which she and other lady lecturers and employees of the college including the 5th respondent were subjected to by the authorities of the said college. In view of such complaints, the Grievance Committee of the University met on 8th March, 2006 to consider the issues in the light of complaints received by the 6th respondent against the college authorities. Pursuant to the meeting of the Grievance Committee, the University by its communication dated 21st March, 2006 directed the 1st and 2nd respondents to take steps against the 3rd and 4th respondents with a direction to suspend them and it was also directed that the 5th respondent may be reinstated. It was also directed that approval granted in respect of the service of 3rd and 4th respondent be frozen. A reply was sent by the 1st respondent to the order of the appellant-University dated 21.03.06. Thereafter, the appellant-University further informed the college authorities that the decision to freeze the approval of the 3rd and 4th respondents was taken under the provision of Clause 25.2 of the University Direction No.25/01 and it was done in accordance with Section 16 (8) of the said Act. The governing body of the respondent college in its meeting held on 27.03.06 refused to comply with the direction issued by the University by its letter dated 21st March, 2006 and this fact was communicated to the appellant by the said college. On 1st April 2006, the 1st and 2nd respondents addressed a letter of the same date and contended therein that the appellant-University does not have the power to freeze the approval of appointment of permanent teachers like the 3rd and 4th respondents and the appellant was asked to withdraw its communication dated 29th March, 2006.

11. Assailing those communications dated 21st March, 2006 and 29th March, 2006 of the appellants, the respondents namely, the Trust, the College Authorities and those two teachers filed a writ petition being 1976/06 contending therein that the appellant-University has no authority to issue those communications. That writ proceeding was heard on contest by the Hon'ble High Court.

12. By the impugned judgment dated 08.06.07, the Hon'ble High Court partly allowed the writ petition and quashed the orders passed by the University in respect of action taken against those respondents on the basis of the allegations of 5th and 6th respondent of sexual harassment at the work place.

13. Challenging the said judgment, this Court has been moved.

14. The main question on which the matter was argued by the appellants was that the High Court was in error in deciding that the Grievance Committee constituted under Section 53 of the said Act, has no jurisdiction to take cognizance of any complaint filed by the 5th and 6th respondent, as they are not approved teachers of the respondent college.

15. In order to appreciate the legal issues involved in this argument, it is better to set out the definition of `teacher' under Section 2(35) of the said Act. Section 2(35) of the said Act runs as under:-

> "2(35) "teachers" means full time approved Demonstrators, Tutors, Assistant Lecturers, Lecturers, Readers, Associate Professors, Professors and other persons teaching or giving instructions on full time basis in affiliated colleges or approved institutions in the university;"

16. Section 53 of the said Act provides as follows:

> "53. (1) There shall be a Grievances Committee in the University to deal with the grievances of teachers and other employees of the University, Colleges, institutions and recognised institutions and to hear and settle grievances as far as may be practicable within six months, and the committee shall make a report to the Management Council.
>
> (2) It shall be lawful for the Grievances Committee to entertain and consider grievances or complaints and report to the Management Council for taking such action as it deems fit and the decisions of the Management Council on such report shall be final.
>
> (3) The Grievances Committee shall consist of the following members, namely:
>
> (a) The Pro-Vice Chancellor, - Chairperson
>
> (b) Four members of the management council nominated by the Management Council from amongst themselves - Members
>
> (c) The Registrar - Member Secretary (4) The Registrar shall not have a right to vote."

17. Construing the aforesaid two Sections, the High Court, following the principle of "ejusdem generis" held that 5th and 6th respondent, being unapproved teachers, do not come within the definition of `teachers' under Section 2(35) quoted above.

18. This Court cannot accept the aforesaid decision of the High Court for various reasons indicated hereinafter.

19. If the definition of teachers, as quoted above, is properly perused it would appear that within the definition of teachers not only full time approved Demonstrators, Tutors, Assistant Lecturers, etc., are included but the definition is wide enough to include "and other persons teaching or giving instructions on full time basis in affiliated colleges or approved institutions in the university." Similarly, the Grievance Committee which is established under Section 53 of the said Act has also been given wide powers to deal with not only the grievances of teachers but also of other employees of the University, college, institution and to settle their grievances as far as may be practicable within a certain time-frame. Sub-section (2) of Section 53 of the said Act provides for consequential steps which the Grievance Committee may take after entertaining the grievances of the category of persons named in Section 53(1). Section 53(3) provides for the constitution of the Grievance Committee and Section 53(4) is procedural in nature.

20. On a combined reading of Section 2(35) with Section 53 of the said Act, this Court is of the opinion that in respect of unapproved teachers also Grievance Committee has the jurisdiction to entertain complaint and undertake the statutory exercise conferred on it under Section 53 of the said Act.

21. The definition of teachers under Section 2(35) is wide enough to include even unapproved teacher. In fact the said definition has two parts, the first part deals with full time approved Demonstrators, Tutors, Assistant Lecturers, Lecturers etc. and the second part deals with other persons teaching or giving instructions on full time basis in affiliated colleges or approved institutions in the University.

22. Even though the approved teachers and those `other persons' who are teaching and giving instructions fall in two different classes both are encompassed with the definition of teacher under Section 2(35) of the Act. The word `and' before `other persons' is disjunctive and indicate a different class of people.

23. A class is a conceptual creation taking within its fold numerous categories of persons with similar characteristics. Here in the group of `other persons' fall those who, on full time basis, are teaching or giving instructions in colleges affiliated with the University and they are also teachers even if they are unapproved. This seems to be the purport of Section 2(35) of the Act.

24. It cannot be disputed that 5th and 6th respondent were engaged in teaching on full time basis in the respondent college, which is an affiliated college of the appellant-University.

25. This Court is constrained to observe that the Hon'ble High Court has not properly appreciated the principle of ejusdem generis in understanding the scope of Section 2(35) read with Section 53 of the Act.

26. The Latin expression "ejusdem generis" which means "of the same kind or nature" is a principle of construction, meaning thereby when general words in a statutory text are flanked by restricted words, the meaning of the general words are taken to be restricted by implication with the meaning of restricted words. This is a principle which arises "from the linguistic implication by which words

having literally a wide meaning (when taken in isolation) are treated as reduced in scope by the verbal context." It may be regarded as an instance of ellipsis, or reliance on implication. This principle is presumed to apply unless there is some contrary indication (See Glanville Williams, `The Origins and Logical Implications of the Ejusdem Generis Rule' 7 Conv (NS) 119).

27. This ejusdem generis principle is a facet of the principle of Noscitur a sociis. The Latin maxim Noscitur a sociis contemplates that a statutory term is recognised by its associated words. The Latin word `sociis' means `society'. Therefore, when general words are juxtaposed with specific words, general words cannot be read in isolation. Their colour and their contents are to be derived from their context [See similar observations of Viscount Simonds in Attorney General v. Prince Ernest Augustus of Hanover, (1957) AC 436 at 461 of the report]

28. But like all other linguistic canons of construction, the ejusdem generis principle applies only when a contrary intention does not appear. In instant case, a contrary intention is clearly indicated inasmuch as the definition of `teachers' under Section 2(35) of the said Act, as pointed out above, is in two parts. The first part deals with enumerated categories but the second part which begins by the expression "and other" envisages a different category of persons. Here `and' is disjunctive. So, while construing such a definition the principle of ejusdem generis cannot be applied.

29. In this context, we should do well to remember the caution sounded by Lord Scarman in Quazi v. Quazi - [(1979) 3 All-England Reports 897]. At page 916 of the report, the learned Law Lord made this pertinent observation:-

> "If the legislative purpose of a statute is such that a statutory series should be read ejusdem generis, so be it; the rule is helpful. But, if it is not, the rule is more likely to defeat than to fulfil the purpose of the statute. The rule, like many other rules of statutory interpretation, is a useful servant but a bad master."

30. This Court while construing the principle of ejusdem generis laid down similar principles in the case of K.K. Kochuni v. State of Madras and Kerala, [AIR 1960 SC 1080]. A Constitution Bench of this Court in Kochuni (supra) speaking through Justice Subba Rao (as His Lordship then was) at paragraph 50 at page 1103 of the report opined:-

> "...The rule is that when general words follow particular and specific words of the same nature, the general words must be confined to the things of the same kind as those specified. But it is clearly laid down by decided cases that the specific words must form a distinct genus or category. It is not an inviolable rule of law, but is only permissible inference in the absence of an indication to the contrary."

(Emphasis supplied)

31. Again this Court in another Constitution Bench decision in the case of Amar Chandra Chakraborty v. The Collector of Excise, Govt. of Tripura, Agartala and others, AIR 1972 SC 1863, speaking through Justice Dua, reiterated the same principles in paragraph 9, at page 1868 of the

report. On the principle of ejusdem generis, the learned Judge observed as follows:-

> "...The ejusdem generis rule strives to reconcile the incompatibility between specific and general words. This doctrine applies when (i) the statute contains an enumeration of specific words; (ii) the subjects of the enumeration constitute a class or category; (iii) that class or category is not exhausted by the enumeration; (iv) the general term follows the enumeration; and (v) there is no indication of a different legislative intent."

(Emphasis supplied)

32. As noted above, in the instant case, there is a statutory indication to the contrary. Therefore, where there is statutory indication to the contrary the definition of teacher under Section 2(35) cannot be read on the basis of ejusdem generis nor can the definition be confined to only approved teachers. If that is done, then a substantial part of the definition under Section 2(35) would become redundant. That is against the very essence of the doctrine of ejusdem generis. The purpose of this doctrine is to reconcile any incompatibility between specific and general words so that all words in a Statute can be given effect and no word becomes superfluous (See Sutherland:

> Statutory Construction, 5th Edition, page 189, Volume 2A).

33. It is also one of the cardinal canons of construction that no Statute can be interpreted in such a way as to render a part of it otiose.

34. It is, therefore, clear where there is a different legislative intent, as in this case, the principle of ejusdem generis cannot be applied to make a part of the definition completely redundant.

35. By giving such a narrow and truncated interpretation of `teachers' under Section 2(35), High court has not only ignored a part of Section 2(35) but it has also unfortunately given an interpretation which is incompatible with the avowed purpose of Section 53 of the Act.

36. The purpose of setting up the Grievance Committee under Section 53 of the Act is to provide an effective grievance redressal forum to teachers and other employees. Any interpretation of `teachers' under Section 2(35) of the Act which denies the persons covered under Section 2(35) an access to the said forum completely nullifies the dominant purpose of creating such a forum. It goes without saying that unapproved teachers need the protection of this forum more than the approved teachers. By creating such a forum the University virtually exercised its authority and jurisdiction as a loco-parentis over teachers-both approved and unapproved and who are working in various colleges affiliated with it. The idea is to give such teachers and employees a protection against any kind of harassment which they might receive in their work place. The creation of such a forum is in tune with protecting the `dignity of the individual' which is one of the core constitutional concepts.

37. Therefore, the doctrine of ejusdem generis cannot be pressed into service to defeat this dominant statutory purpose. In this context we may usefully recall the observations of the Supreme Court of

United States in Guy T. Helvering v. Stockholms Enskilda Bank, 293 US 84, 88-89, 79 L Ed 211, 55 S Ct 50, 52 (1934), as under:-

> "while the rule is a well-established and useful one, it is, like other canons of statutory construction, only an aid to the ascertainment of the true meaning of the statute. It is neither final nor exclusive. To ascertain the meaning of the words of a statute, they may be submitted to the test of all appropriate canons of statutory construction, of which the rule of ejusdem generis is only one. If, upon a consideration of the context and the objects sought to be attained and of the act as a whole, it adequately appears that the general words were not used in the restricted sense suggested by the rule, we must give effect to the conclusion afforded by the wider view in order that the will of the Legislature shall not fail."

(Emphasis supplied)

38. Therefore, with great respect, this Court is constrained to hold that the Hon'ble High Court possibly fell into an error by holding that the Grievance Committee has no jurisdiction to entertain the complaints made by 5th and 6th respondent since they are not approved teachers.

39. Various other factual aspects were considered by the High Court but since the High Court has come to a clear erroneous conclusion that Grievance Committee has no jurisdiction in dealing with the complaint filed by the 5th and 6th respondent, the very basis of the High Court judgment is unfortunately flawed and cannot be sustained.

40. For the reasons aforesaid, the appeal is allowed. The judgment of the High Court is set aside.

41. The High court shall now dispose of the writ petition filed before it in the light of the observations made hereinbefore about the jurisdiction of the Grievance Committee. However, this Court makes it clear that the order of reinstatement made in respect of 5th and 6th respondent shall be maintained and their continuity in service cannot be disturbed without following the provision of University Acts and Statutes.

42. The appeal is allowed with the directions mentioned hereinabove. Parties are left to bear their own costs.

.....J. (G.S SINGHVI) .....J. (ASOK KUMAR GANGULY) New Delhi February 25, 2010