[2024] 1 S.C.R. 1235 : 2024 INSC 230

Ernakulam Regional Cooperative Milk Producers Union Ltd. Etc.
v.
Nithu & Ors. Etc.

(Civil Appeals No. 1455 - 1459 of 2024)
With
(Civil Appeals No. 1460 - 1461 of 2024)
With
(Civil Appeal No. 1462 of 2024)

31 January 2024

[Hima Kohli and Ahsanuddin Amanullah, JJ.]

Issue for Consideration

The appellant, a Cooperative Society, had issued a notification dated 29.01.2011 inviting applications for regular recruitment to, *inter alia*, the post of Plant Attender, Grade-III. The Respondents challenged the notification before the High Court of Kerala and prayed, *inter alia*, for their regularization on the post of Plant Attenders. The Respondents, admittedly, did not avail the remedy under the Industrial Disputes Act, 1947 (ID Act) but directly invoked Article 226 of the Constitution of India and filed a writ petition before the High Court. The appellant-Society had pleaded, before the High Court, *inter alia*, that the nominees did not have any right of permanent employment, and even otherwise, none of the Respondents had worked for over 200 days in a calendar year which disentitled them from any claim of permanent employment. However, the appellant was directed by the High Court to prepare a list of casual labourers from amongst the Respondents and consider their claims for regularization ; Whether the High Court was justified in directing the appellant to consider the Respondents' claims for regularisation.

Headnotes

Constitution of India – Art.226 – Industrial Disputes Act, 1947 – Appeal against common judgment of the High Court of Kerala dated 09.01.2018 – Appellant was directed to prepare a list of casual labourers from amongst the Respondent and consider their claims for regularization in terms of *State of Karnataka and Others v. Umadevi* (2006) 4 SCC 1 –

Respondents' claimed before the High Court that they were working as casual labourers on contract basis with the appellant-Society for several years; engaged continuously for a period of 60 days and then on rotational basis; all of them were in continuous service for a period of over 240 days in a period of 12 calendar months; and ought to be treated as permanent workers under the provisions of ID Act; and that Appellant-Society is an organization covered under the provisions of the ID Act – Remedy under the ID Act not invoked by the Respondents – During pendency of conciliation proceedings before the District Labour, instead of seeking remedies under the ID Act, Respondents continued to press the writ petition filed by them – Respondents admittedly did not invoke the provisions of the ID Act after the conciliation proceedings had failed – Did not seek a reference of the dispute to the Competent authority – Submissions of the Appellant that Respondents were engaged purely on a casual basis; nominated from amongst the members of the Apex Cooperative Society and that Terms and conditions of the Circulars made it clear that the nominees would not have any right of permanent employment and further that none of the Respondents had worked for over 200 days in a calendar year and therefore not entitled to claim permanent employment.

Held: 1. All questions fall in the realm of disputed questions of fact – Would have required evidence to be lead and proper adjudication before an appropriate authority which would have been a remedy under the ID Act- Disputed questions of facts go to the very root of the matter – Judgment dated 09th January, 2018 which is quashed and set aside – Liberty granted to the Respondents to seek their remedies under the ID Act – Respondents continuing in service under the appellant-Society shall not be disturbed for a period of six months to enable them to seek appropriate legal recourse under the ID Act. [Paras 12, 21-24]

2. Powers of judicial review can always be exercised by a writ Court under Article 226 of the Constitution of India but wherever there are disputed questions of facts that need adjudication, it is best left to the competent forum to adjudicate the same by examining the evidence brought on record before any findings can be returned- Writ is a discretionary remedy; High Court to refuse grant of any writ if the aggrieved party can have an adequate or

suitable remedy elsewhere unless the party makes out a strong case that there exist convincing grounds to invoke its extraordinary jurisdiction- When there is a hierarchy of appeals provided under the statute, a party ought to exhaust the statutory remedies before resorting to approaching a writ court. [Paras 15, 17, 18]

Case Law Cited

Gazula Dasaratha Rama Rao v. State of Andhra Pradesh and Others [1961] 2 SCR 931 **: AIR 1961 SC 564;** *Yogender Pal Singh and Others v. Union of India and Others* [1987] 2 SCR 49 **: (1987) 1 SCC 631;** *G. Veerappa Pillai v. Raman & Raman Ltd. and Others* [1952] 1 SCR 583 **: (1952) 1 SCC 334 : AIR 1952 SC 192;** *C.A. Abraham v. ITO and Another* [1961] 2 SCR 765 **: AIR 1961 SC 609;** *Titaghur Paper Mills Co. Ltd. and Another v. State of Orissa and Others* [1983] 2 SCR 743 **: (1983) 2 SCC 433 : 1983 SCC (Tax) 131 : AIR 1983 SC 603;** *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others* [1998] Supp. 2 SCR 359 **: (1998) 8 SCC 1 : AIR 1999 SC 22;** *Punjab National Bank v. O.C. Krishnan* [2001] Supp. 1 SCR 466 **: (2001) 6 SCC 569;** *Radha Krishan Industries v. State of Himachal Pradesh and Others* [2021] 3 SCR 406 **: (2021) 6 SCC 771 – relied on.**

State of Karnataka and Others v. Umadevi [2006] 3 SCR 953 **: (2006) 4 SCC 1;** *K.S. Rashid and Son v. Income Tax Investigation Commission and Another* [1954] 1 SCR 738 **: AIR 1954 SC 207;** *Sangram Singh v. Election Tribunal* [1955] 2 SCR 1 **: AIR 1955 SC 425;** *Union of India v. T.R. Varma* [1958] 1 SCR 499 **: AIR 1957 SC 882;** *State of U.P. v. Mohd. Nooh* [1958] 1 SCR 595 **: AIR 1958 SC 86;** *K.S.Venkatraman and Co. (P) Ltd. v. State of Madras* [1966] 2 SCR 229 **: AIR 1966 SC 1089;** *U.P. State Spinning Co. Ltd. v. R.S. Pandey & Another* [2005] Supp. 3 SCR 603 **: (2005) 8 SCC 264;** *Harbanslal Sahnia v. Indian Oil Corpn. Ltd. and Others* **(2003) 2 SCC 107 – referred to.**

List of Acts

Industrial Disputes Act, 1947.

List of Keywords

Judicial Review; Writ; Discretionary Remedy; Alternative Remedy; Extraordinary Jurisdiction; Statutory Remedies.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos.1455-1459 of 2024

From the Judgment and Order dated 09.01.2018 of the High Court of Kerala at Ernakulam in WA Nos.2484, 2532, 2569, 2613 and 2614 of 2017

With

Civil Appeal Nos.1460-1461 And 1462 of 2024

Appearances for Parties

Chander Uday Singh, Sr. Adv., E. M. S. Anam, Advs. for the Appellants.

Kaleeswaram Raj, Ms. Thulasi K. Raj, Ms. Aparna Menon, Suvidutt M. S., C. K. Sasi, Ms. Meena K. Poulose, Advs. for the Respondents.

Judgment / Order of the Supreme Court

Order

1. Leave granted.

2. The appellant, a Cooperative Society has filed the present appeals being aggrieved by the common judgment dated 09th January, 2018 passed by the High Court of Kerala at Ernakulam in writ appeals[1] preferred by it against the common judgment dated 11th August, 2017[2] passed by the learned Single Judge of the High Court. By the said judgment, the learned Single Judge has directed the Managing Director of the appellant-Society to prepare a list of casual labourers from amongst the writ petitioners as on the date of the judgement and forward it to the Director, Dairy Development Department to consider their claims for regularization in terms of the judgement of this Court in the case of ***State of Karnataka and Others v. Umadevi*** [3].

1 Writ Appeals No.2484, 2532, 2564, 2569, 2578, 2612, 2613, 2614/2017

2 Writ Petitions No.12126, 12353, 12354, 13469, 13998, 15931, 20085, 20848/2011

3 [2006] 3 SCR 953 : (2006) 4 SCC 1

4. The appellant-Society took a specific plea, both in the writ petitions as also before the Appellate Court that it is Cooperative Society and not a State or any other authority, as contemplated under Article 12 of the Constitution of India and therefore, is not amenable to judicial review. On merits, it was submitted that the judgment in ***Umadevi*** (supra) cannot have any application to the facts of the instant case for the reason that the respondents-writ petitioners were not irregular appointees but appointed illegally and therefore, not entitled for regularization.

5. We may note that the respondents-writ petitioners were appointed temporarily on a daily wage basis in terms of the Circulars dated 15th December, 1992 and 10th December, 2010 which stated in clear terms that their appointments were made on a temporary basis and on daily wages on the recommendations by the members of the Society. Some of the relevant stipulations in the Circular dated 15th December, 1992 are extracted hereinbelow for ready reference:

> "(1) Only persons who are members of the member-Societies and their dependants will be considered;
>
> (2) Only one person from one member-Society will be included in the list;
>
> (3) Preference will be given to members of the member-Societies first and only thereafter dependants will be considered;
>
> Xxxxxx
>
> (10) Those who are engaged in this manner will not be given any preference for permanent job."

6. The Circular dated 10th December, 2010 has elaborated in para 1 that :

> "1. Only persons who are members of the member-Societies and their dependants will be considered (Dependants means children of member of Society, wife/ husband)."

7. On 29th January, 2011, the appellant-Society issued a Notification inviting applications for regular recruitment to several posts including the post of Plant Attender, Grade-III. It is not in dispute that the nature of work being undertaken by the respondents was that of

Plant Attenders which is the lowest post in that category. Aggrieved by the aforesaid notification, the respondents filed a writ petition in the High Court praying *inter alia* for quashing of the notification and for issuing directions to the appellant-Society to regularize them on the post of Plant Attenders in their establishment and further, not to alter the conditions of their service pending the conciliation of disputes raised by them.

8. We have specifically inquired from Mr. Kaleeswaram Raj, learned counsel for the respondents as to whether the respondents had subsequently invoked the provisions of the Industrial Disputes Act, 1947[4] after the conciliation proceedings had failed and sought a reference of their dispute to the Competent authority. He submits that in view of the exigencies of the situation, where the appellant-Society had issued a notification inviting applications for appointments to the subject posts, the respondents were left with no other alternative but to invoke Article 226 of the Constitution of India and file a writ petition before the High Court.

9. A perusal of the averments made in the writ petition filed by the respondents shows that they claimed that they were working as casual labourers on contract basis with the appellant-Society herein for the past several years and they claimed that they were engaged continuously for a period of 60 days and thereafter, engaged for short intervals for the same work on rotational basis.

10. At the same time, in ground (A) taken by the respondents in the writ petition they have averred that all of them were in continuous service for a period of over 240 days in a period of 12 calendar months and therefore, ought to be treated as permanent workers under the provisions of ID Act. It has also been asserted that the appellant-Society herein is an organization covered under the provisions of the ID Act. Despite that, the respondent did not raise a dispute for it to be referred for adjudication by the State Government. Instead, while the conciliation proceedings were still pending before the District Labour Officer, who has been impleaded as respondent No.11 herein and the same did not bear any positive result instead of seeking their remedies under the ID Act, the respondents continued to press the writ petition filed by them.

4 For short 'the ID Act'

11. Despite a specific plea taken by the appellant-Society in its counter affidavit filed in response to the writ petition, as pointed out by Mr. C.U. Singh, learned Senior counsel appearing for the appellant-Society, that the writ petitioners were engaged purely on a casual basis and that they were nominated from amongst the members of the Apex Cooperative Society (APCOS) and the terms and conditions of the Circulars issued by the appellant-Society had made it abundantly clear that the nominees would not have any right of permanent employment, such a plea did not find favour with the High Court. Further, the appellant-Society had specifically averred in its counter affidavit that as none of the writ petitioners had worked for over 200 days in a calendar year, even otherwise, they were not entitled to claim permanent employment.

12. In our opinion, all the aforesaid questions would fall in the realm of disputed questions of fact that would have required evidence to be lead and proper assessment and adjudication before an appropriate authority which in the instant case, even as per the respondents-writ petitioners, would have been a remedy available under the ID Act. This aspect seem to have been lost sight of by the learned Single Judge as also the Division Bench. The learned Single Judge appears to have got swayed by the judgement in the case of *Umadevi* (supra) to hold that the respondents - writ petitioners had put in service for over two decades and were therefore entitled to be regularized in terms of the directions issued in the said decision, unmindful of the fact that the appellant-Society had categorically refuted the plea taken by the respondents-writ petitioners that they had put in 240 days of regular service in the past 12 months and instead, had asserted that they failed to satisfy the criteria laid down in *Umadevi* (supra) for purposes of regularization.

13. In such circumstances, the services rendered by the respondents-writ petitioners could not be treated as irregular and would fall in the category of illegal appointments without meeting the requisite criteria for being appointed to the subject post. Moreover, the Circulars dated 15th December, 1992 and 10th December, 2010, reveal that the pool of appointees were confined by the appellant-Society to persons who were members of the Member-Society and their dependents while excluding all others. This itself runs contrary to the very spirit of Article 16 of the Constitution of India, as expounded

in ***Gazula Dasaratha Rama Rao vs. State Of Andhra Pradesh and Others***[5] and ***Yogender Pal Singh and Others vs. Union of India and Others***[6].

14. The following observations made in the case of ***Yogender Pal Singh*** *(supra)* are pertinent:

> "16. We should, however, point out at this stage a fundamental defect in the claim of the appellants, namely, that Rule 12.14(3) of the Punjab Police Rules, 1934 which authorised the granting of preference in favour of sons and near relatives of persons serving in the police service became unconstitutional on the coming into force of the Constitution. Clauses (1) and (2) of Article 16 of the Constitution which are material for this case read thus:
>
> > "16. (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
> >
> > (2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State."
>
> 17. While it may be permissible to appoint a person who is the son of a police officer who dies in service or who is incapacitated while rendering service in the Police Department, a provision which confers a preferential right to appointment on the children or wards or other relatives of the police officers either in service or retired merely because they happen to be the children or wards or other relatives of such police officers would be contrary to Article 16 of the Constitution. **Opportunity to get into public service should be extended to all the citizens equally and should not be confined to any extent to the descendants or relatives of a person already in the service of the State or who has retired from the service.** In ***Gazula Dasaratha Rama Rao v. State of A.P.*** ***[AIR***

5 [1961] 2 SCR 931 : AIR 1961 SC 564

6 [1987] 2 SCR 49 : 1987 (1) SCC 631

1961 SC 564 : (1961) 2 SCR 931] the question relating to the constitutional validity of Section 6(1) of the Madras Hereditary Village Offices Act, 1895 (3 of 1895) came up for consideration before this Court. That section provided that where two or more villages or portions thereof were grouped together or amalgamated so as to form a single new village or where any village was divided into two or more villages all the village officers of the class defined in Section 3, clause (1) of that Act in the villages or portions of the villages or village amalgamated or divided as aforesaid would cease to exist and the new offices which were created for the new village or villages should be filled up by the Collector by selecting the persons whom he considered best qualified from among the families of the last holders of the offices which had been abolished. This Court held that the said provision which required the Collector to fill up the said new offices by selecting persons from among the families of the last holders of the offices was opposed to Article 16 of the Constitution. The court observed in that connection at pp. 940-41 and 946-47 thus :

> "Article 14 enshrines the fundamental right of equality before the law or the equal protection of the laws within the territory of India. It is available to all, irrespective of whether the person claiming it is a citizen or not. Article 15 prohibits discrimination on some special grounds — religion, race, caste, sex, place of birth or any of them. It is available to citizens only, but is not restricted to any employment or office under the State. Article 16 clause (1), guarantees equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State; and clause (2) prohibits discrimination on certain grounds in respect of any such employment or appointment. It would thus appear that Article 14 guarantees the general right of equality; Articles 15 and 16 are instances of the same right in favour of

> citizens in some special circumstances. Article 15 is more general than Article 16, the latter being confined to matters relating to employment or appointment to any office under the State. It is also worthy of note that Article 15 does not mention 'descent' as one of the prohibited grounds of discrimination, whereas Article 16 does. **We do not see any reason why the full ambit of the fundamental right guaranteed by Article 16 in the matter of employment or appointment to any office under the State should be cut down by a reference to the provisions in Part XIV of the Constitution which relate to Services or to provisions in the earlier Constitution Acts relating to the same subject....** (pp. 940-41).
>
> There can be no doubt that Section 6(1) of the Act does embody a principle of discrimination on the ground of descent only. It says that in choosing the persons to fill the new offices, the Collector shall select the persons whom he may consider the best qualified from among the families of the last holders of the offices which have been abolished. This, in our opinion, is discrimination on the ground of descent only and is in contravention of Article 16(2) of the Constitution." (pp. 946-47)
>
> (emphasis in original)

18. **We are of the opinion that the claim made by the appellants for the relaxation of the Rules in their cases only because they happen to be the wards or children or relatives of the police officers has got to be negatived since their claim is based on "descent" only, and others will thereby be discriminated against as they do not happen to be the sons of police officers. Any preference shown in the matter of public employment on the grounds of descent only has to be declared as unconstitutional.** The appellants have not

shown that they were otherwise eligible to be recruited as Constables in the absence of the order of relaxation on which they relied. Hence they cannot succeed."

(emphasis added)

15. We also take note of the submission made by Mr. Kaleeswaram Raj, learned counsel for the respondents-writ petitioners that the power of judicial review cannot be excluded as that is a remedy which was always available to the respondents-writ petitioners *dehors* the equally alternative efficacious remedy available under the ID Act. It is no doubt true that powers of judicial review can always be exercised by a writ Court under Article 226 of the Constitution of India but wherever there are disputed questions of facts that need adjudication, it is best left to the competent forum to adjudicate the same by examining the evidence brought on record before any findings can be returned.

16. There are a line of decisions of this Court relating to entertaining writ petitions when an alternative remedy is available. Constitution Benches of this Court have held that Article 226 of the Constitution of India confers a vide power on the High Courts in matters relating to issuance of writs (Refer: ***K.S. Rashid and Son v. Income Tax Investigation Commission and Another***[7], ***Sangram Singh v. Election Tribunal***[8], ***Union of India v. T.R. Varma***[9], ***State of U.P. v. Mohd. Nooh***[10] and ***K.S.Venkatraman and Co. (P) Ltd. V. State of Madras***[11]).

17. At the same time the remedy of writ is a discretionary remedy and the High Court has always the discretion to refuse to grant any writ if it is satisfied that the aggrieved party can have an adequate or suitable remedy elsewhere (Refer: ***U.P State Spinning Co. Ltd. V. R.S. Pandey & Another***[12]). This discretion is more a rule of self-imposed restrain than a statutory embargo. In essence, it can be described as a rule of convenience and discretion. Conversely, even

---

7 (1954) SCR 738 : AIR 1954 SC 207

8 (1955) 2 SCR 1 : AIR 1955 SC 425

9 (1958) SCR 499 : AIR 1957 SC 882

10 (1958) SCR 595 : AIR 1958 SC 86

11 (1966) 2 SCR 229 : AIR 1966 SC 1089

12 [2005] Supp. 3 SCR 603 : (2005) 8 SCC 264

if there exists an alternative remedy, it is well within the jurisdiction and the discretion of the High Court to grant relief under Article 226 of the Constitution of India, in some contingencies, as for example, where the writ petition has been filed for enforcement of any of the fundamental rights or where there has been a violation of the principles of natural justice or where the orders or proceedings are wholly without jurisdiction or further, where the *vires* of the Act is under challenge (Refer: ***Harbanslal Sahnia v. Indian Oil Corpn. Ltd. and Others***[13]). The limitation imposed on itself by the High Court is more a rule of good sense.

18. If a party approaches the High court without availing of the alternative remedy provided under the statute, the High court ought not to interfere except in circumstances where the party makes out a strong case that there exist convincing grounds to invoke its extraordinary jurisdiction. In the very same spirit, this Court has held that when there is a hierarchy of appeals provided under the statue, a party ought to exhaust the statutory remedies before resorting to approaching a writ court. (Refer: ***G. Veerappa Pillai v. Raman & Raman Ltd. and Others***[14], ***C.A. Abraham v. ITO and Another***[15], ***Titaghur Paper Mills Co. Ltd. and Another V. State of Orissa and Others***[16], ***Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others***[17] and ***Punjab National Bank v. O.C. Krishnan***[18]).

19. The rule of alternative remedy came up for discussion in in ***Whirlpool Corporation*** ***(supra)*** and it was held thus:

> "14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for "any other purpose.

13 (2003) 2 SCC 107

14 [1952] 1 SCR 583 : (1952) 1 SCC 334 : AIR 1952 SC 192

15 (1961) 2 SCR 765 : AIR 1961 SC 609

16 [1983] 2 SCR 743 : (1983) 2 SCC 433 : 1983 SCC (Tax) 131 : AIR 1983 SC 603

17 [1998] Supp. 2 SCR 359 : (1998) 8 SCC 1 : AIR 1999 SC 22

18 [2001] Supp. 1 SCR 466 : (2001) 6 SCC 569

> 15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field".

20. In ***Radha Krishan Industries v. State of Himachal Pradesh and Others***[19], a matter relating to the interface between citizens and their businesses with the fiscal administration in the context of the Himachal Pradesh Goods and Service Tax Act, 2017, where the High Court dismissed a writ petition filed under Article 226 of the Constitution of India challenging the orders of provisional attachment of the property of the assessee by the Commissioner of State Tax and Excise, this Court had the occasion to discuss the maintainability of the writ petition before the High Court and summarized the principles of law in the following words:

> "27. The principles of law which emerge are that:
>
> 27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.
>
> 27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

19 [2021] 3 SCR 406 : (2021) 6 SCC 771

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law.

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion.

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.

28. These principles have been consistently upheld by this Court in Chand Ratan v. Durga Prasad [Chand Ratan v. Durga Prasad, (2003) 5 SCC 399] , Babubhai Muljibhai Patel v. Nandlal Khodidas Barot [Babubhai Muljibhai Patel v. Nandlal Khodidas Barot, (1974) 2 SCC 706] and Rajasthan SEB v. Union of India [Rajasthan SEB v. Union of India, (2008) 5 SCC 632] among other decisions."

21. In the instant case, the disputed questions of facts go to the very root of the matter inasmuch as the appellant-Society has questioned the plea of the respondents-writ petitioners that they have put in 240 days of continuous service in the previous 12 months and would therefore, be entitled to regularization. This aspect requires evidence and its evaluation before the proper forum.

22. In view of the aforesaid discussion, we are unable to sustain the impugned judgment dated 09th January, 2018 which is quashed and set aside. At the same time, liberty is granted to the respondents-writ petitioners to seek their remedies under the ID Act and have their disputes adjudicated in accordance with law.

23. It is clarified that those of the respondents-writ petitioners who are continuing in service under the appellant-Society shall not be disturbed for a period of six months to enable them to seek appropriate legal recourse under the ID Act and move an application for stay which shall be heard and disposed of at the earliest on its own merits.

24. The appeals are allowed and disposed of with the aforesaid directions.

Headnotes prepared by:
Harshit Anand, Hony. Associate Editor
(*Verified by:* Shadan Farasat, Adv.)

Result of the case:
Appeals allowed.