

SUPREME COURT OF INDIA

Khaja Shariff & Ors.

Vs.

B.H.E.L.,

C.A.No.44 of 2007

(Dalveer Bhandari, Mukundakam Sharma,JJ.,)

17.02.2011

ORDER

1. The short question which arises for our consideration in this appeal is that in view of the judgment of the Andhra Pradesh High Court in B.F. Pushpaleela Devi vs. State of A.P., Education Dept. and Ors., 2002 (5) ALT 103 (L.B.), the writ appeal is maintainable or not.

2.Learned counsel for the appellants has drawn our attention to paragraph 53 of the aforesaid judgment in which it is mentioned that "if the order has re-determined the valuable rights of the parties to the proceeding, whether without issuing any notice or after issuing notice, it is a judgment as per the tests laid down in Khimji's case".

3. In the present case, the learned Single Judge by an elaborate judgment has dismissed the review petition. Therefore, against the said order, writ appeal was maintainable and the High Court ought to have given a reasoned order. In this view of the matter, we set aside the impugned judgment and remit the matter to the High Court to decide the writ appeal in accordance with law.

4. Since the matter has been pending for quite some time, therefore, we request the High Court to dispose of the writ appeal as expeditiously as possible.

5. However, it is made clear that we have not expressed any opinion on the merits of the case.

6. The appeal is disposed of accordingly.