

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9048 OF 2014

Sulba Sadanand Shinde

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri D. R. Irale Patil, Advocate for the Petitioner.

Shri A. S. Shinde, A.G.P. for Respondent Nos. 1 to 3.

Shri V. D. Sapkal, Advocate for Respondent Nos. 4 to 6.

**CORAM : S. V. GANGAPURWALA AND
V. L ACHLIYA, JJ.**

DATE : 05TH FEBRUARY, 2015.

PER COURT :

. Mr. Patil, the learned counsel for the petitioner submits that, the respondent/institution is not allowing the petitioner to join the services. According to the learned counsel the petitioner was transferred time and again. When the petitioner was asked to join at Rameshwar Vidyalaya, Wari, the petitioner joined. Thereafter suffered heart ailment and availed medical leave. After the said period, the petitioner went to join, but was not allowed to join. The petitioner was asked to see the respondent No. 5 and get the order. But nothing was done. The petitioner filed representations explaining the difficulties. The petitioner within seven years was transferred four times. Even the

compliance of the order of Education Officer was not made. The representations given by the petitioner are not attended. The petitioner has put in more than 19 years of service and eventually had to approach this Court.

2. Mr. Sapkal, the learned counsel for the respondent/institution submits that, the petitioner is in habit of remaining absent. The details are given in affidavit in reply as to the period of absentism of the petitioner from time to time. On 03.09.2013 the petitioner was again allowed to join, but after joining on 03.09.2013, the petitioner again remained continuously absent and after 03.12.2013 the petitioner has not joined the duty till date. The respondent/institution is deciding to proceed with the Departmental Enquiry against the petitioner.

3. We have considered the submissions canvassed by learned counsel for respective parties.

4. It is not the case of the respondent/institution that the petitioner has been terminated from the service. The petitioner can be said to be in service. We are also not inclined to go into the merits of the contentions raised by either of the parties regarding period of absentism or otherwise. As the petitioner has not been terminated from service and the petitioner has shown her willingness to join at Wari on 09.02.2015, we pass the

following order.

5. The petitioner shall join her duties on 09.02.2015 at Wari that is the place where she was working. The respondent No. 6 shall allow the petitioner to join her duties. As far as the salary for the interregnum period is concerned, it is for the authorities and the respondent/management to consider the same. The petitioner may make representation to that effect, which would be considered by the management and the authorities in accordance with law.

6. The respondent/institution is also not precluded from taking such further steps as is permissible in law. The writ petition accordingly is disposed of. No costs.

The parties to act on authenticate copy.

[V. L ACHLIYA, J.]

[S. V. GANGAPURWALA, J.]