

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.308 OF 2011

Yashoda Shivaji Bagal

... Petitioner

Vs.

Brihanmumbai Municipal Corporation & Ors.

... Respondents

Mr.Swaraj Jadhav for the Petitioner

Ms.Shobha Ajithkumar for Respondent Nos.1, 2 & 3

Mr.Q.M. Ashfaq with Arvind Taral for Resp. Nos.4 & 5

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 4th FEBRUARY, 2015

P.C.:

By this petition, the petitioner impugns the orders of the Deputy Education Officer of the Mumbai Municipal Corporation declining to grant approval to the appointment of the petitioner.

According to the petitioner, the petitioner was appointed as a primary school teacher in the respondent school in the year 1999 and her services were abruptly terminated without following the due procedure, in the year 2006. It is stated that the petitioner made several representations to the education authorities as well as the management but the

respondents refused to permit the petitioner to continue her services as a primary teacher. It is stated that despite the order of the Education officer dated 6.12.2007, the management did not permit the petitioner to join the duties.

Ms.Ajithkumar, the learned Counsel for the Corporation, states the school was brought on grant-in-aid in 2001-2002 for the first time and the name of the petitioner was not shown on the roll of the teachers. It is stated that when the management sent the proposal of the other teachers in the school after the same was brought on grant-in-aid, the petitioner's name was not included in the proposal. So also, it is stated that in the years 2003 to 2008, certain proposals were sent by the management but the petitioner's name was not to be found in the same. It is stated that in view of the circular dated 25.10.2000, the petitioner does not possess the requisite qualification of D.Ed. and, therefore, the authorities in the Corporation rightly declined to grant approval to the appointment of the petitioner.

The learned Counsel for the respondent – Management disputed the appointment of the petitioner as a primary teacher on regular basis in the year 1999. It is stated that the petitioner worked as a reliever and not as a regular employee. It is stated that the proposal of the petitioner was,

therefore, not submitted to the authorities for grant of approval.

On hearing the learned Counsel for the parties, we find that the petition is liable to be dismissed as it suffers from laches. The petitioner has asserted that the petitioner was terminated in 2006. The petition has been filed as belatedly as on 6.12.2010. The inordinate delay in filing the Writ Petition has not been explained. The mere fact that the petitioner made representations to the authorities for 4 – 5 years after her termination would not be a ground for extending the period of limitation. It would be necessary to consider the judgments reported in **2009 3 SCC 281** and **1995 (Supp) 4 SCC 593** in this regard. So also, it cannot be said that there is no delay in filing the Writ Petition merely because the matter was pending before the education authorities.

Apart from the fact that the petition suffers from laches, the petition is also liable to be dismissed as several disputed questions of facts arise for determination in this petition. It is asserted by the petitioner that the petitioner was appointed as an assistant teacher on regular basis. The petitioner has relied on certain documents to substantiate the submission. The said fact has been specifically denied by the management and also the Corporation. The management has specifically denied that the petitioner was appointed on regular basis and it is stated that the petitioner was

working only as a reliever. It is also necessary to note that the management had never sent the proposal of the petitioner for grant of approval from 2001 till 2008, till the alleged termination of services of the petitioner, though the school was brought on grant-in-aid in 2001-2002.

The impugned orders cannot be set aside in the circumstances of the case. The Writ Petition is dismissed with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)