

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4270 OF 2016

Ms. Sarita Mareppa Mhetre ... Petitioner
vs.
Vidhya Vikas Mandal, Mangalwedha & Ors. ... Respondents

**WITH
WRIT PETITION NO. 4271 OF 2016**

Shrikant Amrut Patil ... Petitioner
vs.
Vidhya Vikas Mandal, Mangalwedha & Ors. ... Respondents

**WITH
WRIT PETITION NO. 4272 OF 2016**

Vikrant Prabhakar Pandit ... Petitioner
vs.
Vidhya Vikas Mandal, Mangalwedha & Ors. ... Respondents

**WITH
WRIT PETITION NO. 4173 OF 2016**

Harshraj B. Kasabe ... Petitioner
vs.
Vidhya Vikas Mandal, Mangalwedha & Ors. ... Respondents

Mr. Manoj Patil i/by Suman Y. Lengare, Advocate for the
petitioner.
Ms. Aparna Vhatkar, A.G.P. for respondent no.7/State.
Mr. Z. M. Khairadi, Advocate for respondent no.1.

Coram : Smt. R. P. SondurBaldota, J.
Date : 20th September, 2016

P.C. :

1. The above petitions have been disposed off by a
common order since the cause constituting the petitions and the

grounds of challenge to the orders impugned therein are identical. The petitioners allege that their services were terminated by respondent no.1 by not permitting them to attend the college and sign the muster roll. Thereafter instead of challenging their order of termination before the School Tribunal by filing appeal under Section 9 of Maharashtra Employees of Private School (Conditions of Services) Regulation Act, 1977 ('the MEPS Act', for short), the petitioners filed a civil suit to challenge their termination. The respondents who were the defendants to the suit raised preliminary objection of jurisdiction of the Court to entertain the suit in view of Section 9 of the MEPS Act. The petitioners withdrew the suit on 9th October, 2017 but once again instead of adopting appropriate remedy of approaching the School Tribunal filed Writ Petition No. 3087 of 2014 in this Court. By the order dated 25th February, 2015 the petition was dismissed holding that the same was not maintainable in view of alternate relief of appeal to the School Tribunal provided under Section 9 of the MEPS Act. About two months thereafter i.e. on 30th April, 2015 the petitioners filed their respective appeals in the School Tribunal along with applications for condonation of delay. The School Tribunal by the order dated 26th October, 2016 dismissed the applications for condonation of delay.

2. The petitioners had sought condonation of delay before the School Tribunal contending that the time spent in prosecuting the suit and writ petition filed by them deserves to be excluded. The School Tribunal did not accept the contention with observation that the learned Civil Judge in his order in Regular Civil Suit No.83 of 2013 clearly mentions that the

remedy for the petitioner to challenge their termination from service was before the School Tribunal. Therefore, it was clear that the petitioners had knowledge that the School Tribunal is a proper forum to challenge their termination. Despite this knowledge they filed writ petition in this Court. This conduct according to the impugned order demonstrated their negligence in pursuing the proper remedy. The impugned order also notices that the petitioners are well educated persons and with a clear order passed by the Civil Court indicating the proper forum for challenging the order of termination, the delay occasioned by filing of the writ petition though it is claimed to have been filed on the basis of wrong advice given to the petitioners cannot be accepted.

3. In my opinion, there is no infirmity in the impugned order. The petitioners were made well aware by the order dated 17th July, 2013 passed by the Civil Court about the proper forum for redressal of their grievances by specifying the provision of law. Thereafter they waited for three months to withdraw the suit on 17th October, 2013. This delay has neither been acknowledged nor explained anywhere in the petition. Further in such circumstances, there can be no justification for filing writ petition to challenge termination from service. Therefore any time taken for prosecuting the writ petition can also not be excluded. Hence, the petitions are dismissed.

[Smt. R. P. SondurBaldota, J.]