

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

WRIT PETITION NO.3313 OF 2016

Maharashtra Cosmopolitan Educational Society's
MCES College of Education and Research & Anr. .. Petitioners

Vs.

The Presiding Officer, Mumbai University and
College Tribunal & Ors. .. Respondents

Mr.C.K. Thomas for the petitioners.

Mr.Sunil Dighe for the respondent nos.2.

Mr.Mohd.Asadullah Shaikh i/by Ms.Rui Rodrigues for the respondent
no.3-University.

Mr.A.R.Metkari, AGP for the respondent no.4.

CORAM : R.D. DHANUKA, J.

DATE : 4th July 2016

P.C.

. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order and judgment dated 18th January 2016 passed by the University and College Tribunal Mumbai.

2. There is no dispute that though the petitioners have raised an issue of maintainability of the appeal filed by the respondent no.2, the University and College Tribunal has not decided the said issue in the impugned judgment.

3. Mr.Dighe, learned counsel appearing for the respondent no.2 states that his client has no objection if the matter is remanded back to the University and College Tribunal for deciding all the issues including the issue of maintainability of the appeal. Statement is accepted.

4. By consent of the petitioners and the respondent no.2, the impugned order dated 18th January 2016 passed by the University and College Tribunal in Appeal No.7 of 2015 is set aside. Appeal is restored to file with a direction to hear the said appeal afresh and in accordance with law expeditiously.

5. The University and College Tribunal shall decide the issue of maintainability of the appeal and other issues raised in the appeal filed by the respondent no.2 in accordance with law. Both the parties have agreed to co-operate with each other and with the University and College Tribunal in expeditious disposal of the appeal. The University and College Tribunal shall make an endeavour to dispose of the appeal within a period of four months from the date of first hearing. It is made clear that none of the parties shall take any unnecessary adjournment before the University and College Tribunal.

6. It is also made clear that the University and College Tribunal shall decide the issue of maintainability of the appeal filed by the respondent no.2 on the basis of the grounds raised in the written statement and in a separate application filed by the petitioner raising the issue of maintainability of the appeal which was not decided by the University and College Tribunal. All other issues raised by the parties in the memorandum of appeal and in the reply respectively shall also be considered afresh by the University and College Tribunal. It is made clear that the University and College Tribunal shall decide the matter without being influenced by the observations and conclusions drawn in the impugned order passed by the University and College Tribunal.

7. Writ petition is disposed of in aforesaid terms. No order as to costs. Both the parties as well as the University and College Tribunal to act on the authenticated copy of this order.

R.D. DHANUKA, J.