

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

WRIT PETITION NO.255 OF 2013

Jayshree K. Raut

...Petitioner

vs.

Headmaster,

C.U. Shah School and Others

...Respondents

Mr. Mandar Limaye, for the Petitioner

Mr. C.M. Lokesh, for Respondent Nos. 1 and 3.

Mr. A.Y. Sakhare, Senior Advocate a/w. Mrs. Geeta Joglekar, for
Respondent Nos. 4 and 6.

Mr. Bharat Mehta, AGP for Respondent No. 5.

CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.

DATE : JUNE 08, 2016

P.C.:

1. Parties through their counsel.
2. The Petitioner was working on the post of '*Assistant Teacher*' and stood retired on 21st December, 2011. The grievance of the Petitioner is that she has not been paid the entire retiral dues for which she is entitled. It is also her case that in terms of the order passed by this Court, the claim of the Petitioner for continuity of service, though has been considered and decided vide order dated 7th

January, 2006 (Exhibit 'I'), but the said order is a non-speaking order. She submits in regard to her grievance that she made representation dated 9th January, 2012 (Exhibit 'J') to Respondent No. 4 - Education Officer and dated 29th February, 2012 (Exhibit 'K') but the Education Officer has not paid any heed and not decided it as yet.

3. The learned senior counsel appearing for Municipal Corporation has argued that the Petitioner's claim was duly considered and rejected in the year 2006 and therefore the Petitioner has approached this Court in the year 2013 and as such her claim is barred by the limitation. He also submits that the Petitioner never cooperated with Respondent No. 4/Education Officer for deciding her matter and not submitted the relevant papers for perusal.

4. The learned counsel appearing for Respondent No. 3 has also submitted that the Petitioner has never approached Respondent No. 3/Society along with relevant papers so that the same may be forwarded to Respondent No. 4/Education Officer.

5. Replying to the aforesaid contentions, the learned counsel

for the Petitioner submits that after retirement the Petitioner made several representations and on account of non consideration of the representations, the Petitioner filed this Petition and as such there is no inordinate delay. He also submits that the Petitioner is ready to cooperate with the Education Officer and submit all the necessary papers which may be necessary for deciding her claim.

6. Having regard to the aforesaid contentions, we are of the view that there is no inordinate delay and laches on the part of the Petitioner for filing of the Petition. As a result, we direct Respondent No. 4 – Educational Officer, Municipal Corporation of Greater Bombay to consider the Petitioner's claim afresh, uninfluenced by the earlier order dated 7th January, 2006 which we find is a non speaking order and was passed prior to the Petitioners retirement.

7. The Petitioner to approach Respondent No. 3/ New Sarvajanik Education Society first and submit all the relevant papers as may be required by Respondent No. 3 for sending it to Respondent No. 4/Education Officer, therefore, the Respondent No. 3 shall forward the papers to Respondent No. 4/Education Officer within a

week from the date of receipt of such papers. Thereafter, the Respondent No. 4/Education Officer shall grant an opportunity of hearing to the Petitioner and shall pass a fresh reasoned order uninfluenced by the earlier order dated 7th January, 2006 as expeditiously as possible but not later than two months from the date of appearing by the Petitioner. The Petitioner to appear before Respondent No. 4/Education Officer, Municipal Corporation of Greater Bombay on 11th July, 2016 at 11.00 a.m.

8. Needless to say that Respondent No. 4 to pass the reasoned order and in case if the Petitioner is found entitled to any monetary benefits, the same may be paid to the Petitioner within a period of one month from the date of the said order.

9. On the aforesaid direction, the Petition stands disposed of.

(M.S. KARNIK, J.)

(S.S. KEMKAR, J.)