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

WRIT PETITION (ST) NO. 1301 OF 2016

Vasantdada Patil Pratishthan

...Petitioner

Vs.

All India Council for Technical
Education & Ors.

...Respondents

Mr. A.S. Desai i/b. R.S. Ghadge, Advocate for the Petitioner

Mrs. Meena H. Doshi, Advocate for Respondent No.1

Ms. Poonam Kantharia, AGP for the State

**CORAM : A.S. GADKARI &
M.S. KARNIK, JJ.**

**DATED : 18TH MAY, 2016
(VACATION COURT)**

P.C. :

The Petitioners have challenged the order dated 30th April, 2016 passed by the Director (Approval), All India Council for Technical Education.

2) At the out set, the learned counsel appearing for respondent No.1- A.I.C.T.E., submitted that, the petitioners, without availing the substantive alternate remedy at its commend i.e. statutory appeal before the Standing Appellate Authority have filed the present petition under Article 226 and 227 of the Constitution of India. In view of the parameters and guidelines laid down by the Supreme Court in the case of Shalini S. Shetty vs. Rajendra S. Patil

reported in (2010) 8 SCC 329 and in particular, Clause (c) of Para 49 of the said Judgment wherein it has been held that, in cases where alternate statutory mode of redressal has been provided that would also operate as a restraint on the exercise of the power by the High Court. The larger Bench of the Supreme Court in the case Radhey Shyam and another vs. Chhabi Nath and others reported in (2015) 5 SCC 423 has affirmed the ratio laid down in the case of Shalini Shetty (supra).

3) In view of the above, the learned counsel for the petitioner seeks leave to withdraw the present petition with liberty to file a statutory appeal before the Standing Appellate Authority. Leave and liberty granted.

4) Petition is disposed off as withdrawn.

5) The learned counsel appearing for the petitioners submitted that the impugned order was passed on 30.4.2016 and his client received the copy of the said order on 3.5.2016 i.e. after the prescribed cut off date and therefore, the petitioners could not file the said appeal. He further submitted that in view of the guidelines prescribed by the Hon'ble Supreme Court, the cut off date to prefer and decide the appeal was 30.4.2016. In view of the fact that the impugned order was received by the petitioners on 3.5.2016, i.e. after the cut off date, we hereby direct the Appellate Authority not to raise an objection pertaining to the cut off date in preferring the statutory appeal.

6) The learned counsel for the petitioner on instructions submitted that taking into consideration the exigency involved in

the present matter the petitioner shall prefer the statutory appeal on or before 23.5.2016 before the Appellate Authority and the Appellate Authority is hereby directed to hear the said appeal on 27.5.2016. The petitioners representative shall remain present before the Appellate Authority on the said date on or before 11.00 a.m. The Appellate Authority is further directed to pass a reasoned order on or before 30.5.2016 and to communicate the same to the petitioners by all possible modes as expeditiously as possible.

7) All the contentions of the respective parties are kept open.

8) Petition is disposed off in the aforesaid terms.

(M.S. KARNIK, J.)

(A.S. GADKARI, J.)