

FARAD CONTINUATION SHEET No.

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

WRIT PETITION (L) NO.1355 OF 2016

Thadomal Shahani Engineering College. ...Petitioner.
vs.
All India Council for Technical Education
and ors. ...Respondents.

Mr. S.C.Naidu along with Mr. A. Poojari and Mr. J.S.Chandani for the
Petitioners.

Mrs. Meena Doshi for Respondent No.1.

Mrs. P. H. Kantharia, G.P. for the State.

Mr. Abhishek Tripathi i/by Rui Rodrigues for Bombay University.

CORAM: A.S.GADKARI &
M.S.KARNIK, JJ.
(VACATION BENCH)

DATE : 18th May, 2016

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4) Petition is disposed off as withdrawn.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 4.5.2016 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 4.5.2016, i.e. after the cut off date, we hereby direct the Statutory Appellate Authority not to raise 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.)