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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.4392 OF 2016

Sanjana w/o Keshav Sarode
(Kauthale), Age: 45 years, Occ: Nil,
R/o. Shani Chowk, Shrigonda,
Tq. Shrigonda, Dist. Ahmednagar. ..PETITIONER

VERSUS

1. Dnyandeep Gramin Vikas Sanstha,
Kashti, Tq. Shrigonda,
District Ahmednagar
Through its President.
2. Tulja Bhavani Seva Pratishthan,
Wangdari, Tq. Shrigonda,
District Ahmednagar
Through its President.
3. Kushalyadevi Nagwade English
Medium School, Shrigonda,
District Ahmednagar
Through its Head Master.
4. Education Officer (Secondary),
Zilla Parishad, Ahmednagar.
5. State of Maharashtra,
Through its Secretary,
School Education Department,
Mantralaya, Mumbai. ..RESPONDENTS

Mr L.V. Sangeet, Advocate h/f Mrs. M.L. Sangeet,
Advocate for petitioner;
Mr Parag V. Barde, Advocate for respondent No.1;
Mr S.M. Ganachari, A.G.P. for respondent/State

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CORAM : NITIN W. SAMBRE, J.**DATE : 19th SEPTEMBER, 2017****ORAL ORDER :**

The petitioner was appellant before School Tribunal in Appeal No.46 of 2013. It is the case of petitioner-appellant that from June 2004 to April 2010, she was working as Assistant Teacher with respondent No.1 trust. Since the President of respondent Nos. 1 and 2 Trust are same, she was subsequently given appointment order to work with respondent No.2 - trust in respondent No. 3 - school, vide alleged appointment order dated 17th May, 2010 till end of academic session as co-teacher, vide order dated 30th April, 2011 as sports teacher till academic session 2012 and she further claimed that there was oral termination.

2. The School Tribunal, after considering the claim, held that there is no oral termination and dismissed the appeal. As such, this petition.

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3. Mr. Sangeet, learned Counsel for the petitioner would advance following arguments.

Since there was misrepresentation to the petitioner by office bearers of respondent Nos. 1 and 2 – trust, it has to be inferred that services of the petitioner are from June 2004 till the date of termination i.e. 2012 and as such, there is deemed confirmation of the petitioner in service of respondent Nos. 2 and 3. Learned Counsel would urge that appointment of the petitioner with respondent Nos. 2 and 3 is not in dispute, particularly in the light of appointment orders produced on record and as such, services of the petitioner should not have been terminated without following due process of law. As such, according to him, the appeal needs to be allowed. He would then urge that the tribunal has failed to appreciate the services of petitioner from 2004 to 2010 and in continuation thereof up to 2012 i.e. 14th June, 2012. As such, he sought indulgence.

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4. Mr. Barde, learned Counsel for respondent No.1 would urge that alleged services of the petitioner with respondent No.1 is under dispute, as neither appointment order was issued to the petitioner nor worked with respondent No.1 as Shikshan Sevak or Assistant Teacher from 2004 to 2010. He would urge that claim, if any, against respondent No.1 is time barred, as appeal was filed in 2013, whereas limitation for filing appeal against the jurisdiction, if any, by respondent No.1 is 30 days. He would then urge that the claim if any, against respondent Nos. 2 and 3, are to be answered by the said respondents.

5. Considered rival submissions. The petitioner initially filed Writ Petition No. 2165 of 2013 before the Division Bench of this Court, which was withdrawn. The petitioner, prior to that, preferred representation to the Education Officer, wherein the petitioner was informed that she should seek redressal of her grievance by approaching tribunal. The said issue was in relation to

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respondent No.1, however, there was no issue raised qua respondent Nos. 2 and 3.

6. Apart from above, it is required to be noted that the issue qua termination of services of respondent No.1 is concerned, the petitioner has not placed on record any material evidence so as to demonstrate or infer that she was working with respondent No.1-trust but for, communication by the Education Officer on 21st November, 2012. The said communication, in my opinion, cannot be relied upon in support of the claim made by petitioner, as same contains only passing reference about the status of petitioner, however, no rights of the parties are adjudicated by the Education Officer.

7. Apart from above, it is required to be noted that, had it been a case that the petitioner's services were terminated by respondent No. 1 in April 2010, the appeal against such oral termination by respondent No.1 has to be held to be time barred, as no explanation on delayed action by

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petitioner is coming forward. Apart from above, even if the claim of the petitioner is to be accepted that she was made to work with respondent Nos. 2 and 3 with understanding that her services from 2004 to 2010 will be continued, however, the fact remains that, the petitioner, to that effect but for, appointment order, that too, for temporary period from 2010 to 2012 is not able to establish or substantiate the said claim by means of any documentary evidence.

8. Apart from above, what is required to be noted is, against on clear vacancy, appointment is required to be made by the Management upon permission from the Education Officer, that too, by advertising the post and conducting transparent selection process, which is conspicuously absent, particularly in the matter of alleged selection and appointment of the petitioner.

9. The scheme as is provided for appointment of Assistant Teacher is that such person is

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appointed as Shikshan Sevak initially for three years on fixed honorarium. That does not appear to be the case of the petitioner. Rather, she claims that she was appointed as Co-Teacher and later on Sports Teacher, that too, on the fixed salary.

10. In the wake of above, in my opinion, no case for indulgence is made out so as to call for interference in the judgment delivered by the School Tribunal. As such, the petition fails, as lacks substance and stands dismissed.

(NITIN W. SAMBRE, J.)

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