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IN THE COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
MISCELLANEOUS CIVIL APPLICATION NO.1457/2017
IN
WRIT PETITION NO. 4110/2016

(Priya D/o vinayak Dahake and another vs. The State of Maharashtra and others)

Office Notes, Office Memoranda of
 Coram, appearances, Court's orders
 of directions and Registrar's orders

Court's or Judge's order

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 Mrs. S.W. Deshpande, Adv. for petitioners /applicants
 Mr. S.a.Ashirgade, Addl. G.P for respondent nos.1 and 2

CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
DATED : 9th January, 2018.

1. Writ Petition No. 4110/2016 was disposed of on 17th November 2017, in view of the availability of alternate remedy.

2. MCA has been filed to demonstrate to this Court that there is no such alternate remedy available. By placing reliance upon the judgment dated 19th October, 2015 delivered by learned single Judge in Writ Petition No. 7389/2014 at Nagpur, it is submitted that as the Special Schools Code for physically handicapped Schools does not enjoy any statutory status, remedy thereunder cannot bar Writ Petition. Other judgment delivered at Bombay and reported at 2001 (Vol.3) Bom CR 200: (Surekha Pawar vs. State), is also relied upon to show that MEPS has no application.

3. Counsel for respondent nos.4 and 5 Mr.Dewani has relied upon judgment of learned single Judge at Bombay reported

at 2007 Vol.3 BOM CR 709 :(Narsingh Rao vs.Suresh Kulkarni and others), where same Code has been looked into and it is found that Rule 83 provides for remedy of appeal. In view of this position, we find that proper consideration of the issue is necessary.

4. We, therefore, recall the order dated 17th November, 2017 and restore Writ Petition No.4110/2016 back to the file. Needless to mention that contentions raised by parties are kept open, to be looked into when the matter is listed for admission.

5. MCA is disposed of.

JUDGE

JUDGE

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