

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10288 OF 2017

Vandana Harishchandra Bhalerao ... Petitioner
versus
Sangopan Shikshan Sanstha and Ors. ... Respondents

Mr.Sugandh B. Deshmukh for the
Petitioner.

Mr.N.V.Bandiwadekar a/w Mr.Vinayak
Kumbhar, Mr.Ashutosh Patil i/b Mr.Sagar
Mane for Respondent Nos.1 and 2.

Mr.Rohit Sakhdeo for Respondent No.3.

Mr.B.V.Samant, AGP for Respondent Nos.4
to 6 (State).

CORAM :- S. C. DHARMADHIKARI &
R.I.CHAGLA, JJ.

DATE :- NOVEMBER 15, 2019

P.C. :-

1. Heard both sides.
2. It is fairly stated by Mr.Sugandh Deshmukh appearing for the petitioner that the petitioner may have approached the Grievance Committee, but that cannot be a substitute for Tribunal under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (for short, "the MEPS Act"). That Grievance Committee is eventually found to be lacking in the

power, jurisdiction and authority to direct absorption or the reinstatement of the petitioner in the service. It has no adjudicatory powers. Its powers were only recomendatory in nature. That is how the pronouncement of the Hon'ble Supreme Court in the case of *A.P.D.Jain Pathshala Vs. Shivaji Bhagwat More*¹ would declare.

3. In the light of the law laid down in this judgment, the remedy of the petitioner was not to approach this Committee, but to file a substantive appeal under Section 9 of the MEPS Act. That appeal lies before the competent School Tribunal. The petitioner, who is present in court, seeks leave to withdraw this petition with liberty to approach such Tribunal.

4. The writ petition is disposed of as withdrawn with liberty as prayed. All contentions of the parties are kept open. It is entirely for the Tribunal and its Presiding Officer to conclude whether there is a delay, inordinate and unexplained and, therefore, he should not entertain the appeal or otherwise. The petitioner has to prove to the satisfaction of the Presiding Officer that the delay which has been caused, is not caused by any act of negligence attributable to the petitioner or her inaction, but entirely on account of the legal advise tendered to her and, therefore, she has

¹ (2011) 13 SCC 99

acted *bona fide* and that period, which she had spent for pursuing the matter before the Grievance Committee or before this Court, should be excluded from the period of limitation prescribed for filing such appeal. The contentions in that regard and on merits are kept open.

(R.I.CHAGLA, J.)

(S.C.DHARMADHIKARI, J.)