

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7283 OF 2021

Sunita Rajendra Apte	...	Petitioner
Vs.		
State of Maharashtra and others	...	Respondents

Ms. Ameeta Kuthikrishnan a/w. Ms. Sanvi Vaze i/b. Ms. Mahalakshmi Ganpathy for Petitioner.

Mrs. P. N. Diwan, AGP for Respondent No.1-State.

Mr. Arvind G. Kothari i/b. Ms. Nandini G. Menon for Respondent Nos.2 and 3.

**CORAM : R. D. DHANUKA &
R. N. LADDHA, JJ.**

DATE : DECEMBER 06, 2021

P.C. :-

Rule. Mrs. Diwan, learned AGP waives service for respondent No.1 State. Mr. Kothari, learned counsel waives service for respondent Nos.2 and 3. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, petitioner seeks writ of mandamus for quashing and setting aside the impugned order of transfer dated 27th August 2013 annexed at page 23 on the ground that the petitioner has been working with respondent No.2 Institution for the last 35 years. Petitioner's younger son Atharva Apte is a special child and needs constant supervision and guidance who is presently studying in V. N. Sule English Medium School, Class 9. He is 14 years old and has multiple disabilities including Deaf Blindness and Autism Spectrum Disorder with borderline Intellectual Disability. In support of these averments made in the writ petition, petitioner has annexed various medical certificates and also the disability certificate issued by the Department of Empowerment of Persons with Disabilities, Ministry of Social Justice and Empowerment, Government of India.

3. The matter was adjourned by this Court to enable Mr. Kothari, learned counsel for respondent Nos.2 and 3 to take instructions whether the petitioner can be allowed to join respondent No.2 school at Vashi one hour late than the scheduled time for reporting.

4. Learned counsel for respondent Nos.2 and 3, on instructions, states that if the petitioner is willing to work beyond the scheduled hours and to compensate for the permission to report late by one hour, Management will accommodate the petitioner in view of the peculiar facts of this case.

5. Learned counsel for the petitioner agrees to join respondent No.2 College at Vashi and to compensate the late reporting by one hour after the office hours. Statement is accepted.

6. Perusal of the record clearly indicates that the son of the petitioner Atharva Apte is a special child and needs constant supervision and attention. He has multiple disabilities including Deaf Blindness and Autism Spectrum Disorder with borderline Intellectual Disability. In these facts and circumstances on record, we appreciate the efforts taken by Mr. Kothari, learned counsel for respondent Nos.2 and 3 to accommodate the petitioner on the transferred post by allowing her to report on duty one hour late as a special case. We also accept the statement made by learned counsel for the petitioner that for this one hour late reporting to respondent No.2 school, her client will compensate by working beyond the office hours. This statement made by the petitioner is accepted as undertaking to this Court.

7. In case of any difficulty either to the petitioner or to respondent No.2 in view of starting of physical lectures in the school and if the timings are changed, both the parties would be at liberty to apply for further directions from this Court. Respondent Nos.2 and 3 shall send

the pay bills for payment of salaries and other benefits to the petitioner to respondent No.1. Respondent No.1 shall not withhold payment of the petitioner on the ground that petitioner has reported duties one hour late in view of the petitioner's undertaking before this Court to compensate the said one hour period by working beyond the office hours in respondent No.2 school. Petitioner would be allowed to report to respondent No.2 school at Vashi from 13.12.2021 without fail.

8. It is made clear that this order is passed in the peculiar facts and circumstances of this case and shall not be used as a precedent in any other matter. It is further made clear that both the parties have arrived at this arrangement till the child of the petitioner Atharva Apte is studying in Dadar School of respondent No.2 management.

9. Writ petition is disposed of in aforesaid terms. There shall be no order as to costs.

10. Parties to act on the authenticated copy of this order.

(R. N. LADDHA, J.)

(R. D. DHANUKA, J.)

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