

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

**WRIT PETITION NO.8228 OF 2022
MANGALA VITTHAL SAPKALE
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY
AND OTHERS**

...
Advocate for the Petitioner : Shri Sapkale Sumeet A.
AGP for the Respondents/ State : Shri S.G. Karlekar

...
**CORAM : RAVINDRA V. GHUGE
&
ARUN R. PEDNEKER, JJ.**

DATE :- 11th August, 2022

Per Court :-

1. The petitioner has put forth prayer clause B as under:-

“B) By a writ of mandamus, or any other writ, or order or directions in the like nature, the letter and the consequent entries made by the respondent no.4 which relates to the leaves taken without pay and the recovery thereto of the petitioner dated 25.06.2022 be quashed and set aside.”

2. Our attention is drawn to the communication by the Headmaster of the private school addressed to the petitioner alleging that she was absent and hence, she was treated as being on leave without pay. The petitioner contends that the petitioner desired to mark her attendance and also made attempts to mark

her attendance. However, the junior college did not allow her to mark her attendance and that is how she has been treated as being absent/on leave without pay.

3. It is further canvassed that the petitioner used to remain present in the college and attempted to discharge duties. However, the petitioner was restrained from marking attendance and was shown as absent. By showing her as being absent, recovery is now sought against her.

4. It is obvious that the private college/school would not fall within the definition of the “State” under Article 12 of the Constitution of India. Private disputes cannot be brought before the Court in writ jurisdiction. So also, disputed factors pertaining to whether, the petitioner was present, whether, she desired to work, whether, she was restrained from marking attendance and whether, she was prevented from performing duties, etc., cannot be gone into while exercising writ jurisdiction. The petitioner, therefore, should avail of the remedy as may be permissible in law as against the private management.

5. In view of the above, this Writ Petition is dismissed.