

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3049 OF 2021

Hotagikar Nasreen Amir Khusaro & Anr. ... Petitioners.

V/s.

State of Maharashtra & Others ... Respondents.

Mr. Manoj Harit, i/b Manoj Harit & Co., for the Petitioners.

Mrs. P.J. Gavhane, AGP, for the Respondent-State.

Mr. A.R. Shaikh, for Respondent No. 4.

Mr. Sachin Choudhari, for Respondent No. 5.

**CORAM : NITIN JAMDAR AND
AMIT B. BORKAR, JJ.**

**DATE : 6 JANUARY 2022.
(Through Video Conferencing)**

P.C. :

The Respondent No. 5 has not joined the service and because the Respondent No. 5 has not joined, coercive steps are taken by the Respondent – Education Authorities, what are under challenge in this Petition.

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2. As on today, the relationship between the Petitioner – Institution and Respondent No. 5 subsist and there is no severance thereof by any order passed by Respondent No. 4. That being the position, we do not find that there is any warrant to interfere with the impugned order.

3. The learned Counsel for the Petitioners states that the Petitioners have a right in law to take a decision regarding termination of service of Respondent No. 5 and after such services are terminated as per the legal right vested in the Petitioners, no insistence can be made by the Respondent – Authorities to take the Respondent No. 5 in service. However, that step is not yet taken and, therefore, we do not find that there is any warrant to interfere as above.

4. Needless to state that if the legal relationship between the Petitioner – Institution and Respondent No. 5 is brought to an end by the Petitioners as per law, then the impugned order passed by the Education Authorities would not survive.

5. With these observations, the Writ Petition is disposed of.

(AMIT B. BORKAR, J.)

(NITIN JAMDAR, J.)