

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7194 OF 2024

Rovina Anthony Pinto ... Petitioner
versus
The State of Maharashtra and Others ... Respondents

....

Mr.Surendra Choudhari with Mr.Ajay P. for the Petitioner.

Mr.B.V.Samant, Addl.GP with Mr.V.G.Badgujar, AGP for Respondent
Nos. 1, 2 and 5, State.

....

**CORAM : RAVINDRA V. GHUGE
&
ASHWIN D. BHOBE, JJ.**

DATE : 18TH DECEMBER, 2024

P.C.:

1. This Court [Coram : Nitin Jamdar (as His Lordship then was) and M.M.Sathaye, JJ.] had passed an order on 9th July, 2024 which reads as under :

“1. Heard the learned counsel for the parties.

2. The Deputy Director of Education, Kolhapur Division, Kolhapur passed order dated 5 January 2021 on the ground that the Petitioner did not pass TET examination before the stipulated date and directed that services of the Petitioner be cancelled and if he is continued, the responsibility of the salary will be on the Management. Thereafter, the Management terminated the services on 13 February 2021.

3. Against this order, the Petitioner filed a writ petition which the Petitioner withdrew with liberty to adopt appropriate proceedings and thereafter, made a representation which is decided by communication/order dated 25 October 2023 which is handed over in the Court by the learned AGP. The communication states that the Petitioner has to approach the School Tribunal under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 and rules thereunder. Since the management has terminated the Petitioner's services, the Deputy Director of Education has stated that the Petitioner will have to approach the School Tribunal.

4. The learned counsel for the Petitioner sought to contend that other similarly situated teachers are continued in service and they have been paid salary. There could be cases where they are either protected by order of this Court or they are in fact in service. Since the order dated 25 October 2023 is tendered in the Court today by the learned AGP, we grant time to the learned counsel for the Petitioner to examine the same. It is open to the Petitioner to take necessary steps to approach the School Tribunal to save limitation/delay.

5. Stand over to 8 August 2024.”.

2. It was under fortuitous circumstances that the matter got adjourned and thereafter, His Lordship Justice Nitin Jamdar took over as the Hon'ble Chief Justice of Kerala High Court and the Bench changed.

3. We have heard the learned Advocate for the Petitioner and we find that the Petitioner is not inclined to approach the Tribunal. This

Court had recorded in the order dated 9th July, 2024 that the limitation/delay could be saved if the Petitioner goes to the Tribunal at the earliest keeping in view that she has been terminated on 13th February, 2021.

4. The learned Advocate for the Petitioner submits that if this Court is relegating the Petitioner to the Tribunal, at least, the contention of the Petitioner may be considered by the Tribunal that she, out of three such employees, is the only person who has been disengaged and other two have been reinstated in service.

5. In view of the above, **this Writ Petition is disposed off** with liberty to the Petitioner to approach the School Tribunal. The time spent by the Petitioner in this Court from 29th April, 2024 till the passing of this order, shall be considered as a good ground for condonation of delay. Insofar as the filing of an earlier Writ Petition No. 58 of 2023, which the Petitioner withdrew, the Tribunal will consider the said aspect as well, in the light of the law laid down by the Hon'ble Supreme Court on condonation of delay in *Collector, Land Acquisition, Anantnag v/s Mst.Katiji*, AIR 1987 SC 1353 and *Esha Bhattacharjee v/s Managing Committee of Raghunathpur Nafar Academy*, (2013) 12 SCC 649.

6. All contentions of all the litigating parties are kept open, including the contention of the Petitioner as regards legal and factual victimisation.

(ASHWIN D. BHOBE,J.)

(RAVINDRA V. GHUGE, J.)