

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO. 3101 OF 2022

Shri Surgonda Kalgonda Patil. ... Petitioner.
V/s.
The State of Maharashtra and others. ... Respondents.

Mr.S.A.Rajeshirke for the Petitioner.
Mr.V.M.Mali,AGP for Respondent Nos.1 and 2.
Mr.Vishwesh Gadge i/b. Mr.Chetan G. Patil
for Respondent Nos.3 and 4.

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**CORAM : NITIN JAMDAR, AND
M.M. SATHAYE, JJ.**

DATE : 29 April 2024.

P.C. :

Heard the learned counsel for the parties.

2. The Respondent- Management, by order dated 28 September 1998, imposed penalty on the Petitioner of stoppage of one increment permanently. The Petitioner filed appeal to the Deputy Director of Education under the proviso to Rule 29 of the Maharashtra Employees of Private Schools (Conditions of Service) Rules, 1981. The Deputy Director delegated his power to the Administrative Officer, School Board who passed an order dated 22 September 1999 stating that an opportunity should have been given

to the Petitioner before passing the order of stoppage of one increment permanently and directed to restore the increment. The Respondent- Management challenged the said order passed by the Administrative Officer before the Deputy Director of Education by way of an appeal, which is pending. This took place in the year 1999. Writ petition is filed in the year 2021.

3. According to the Petitioner, merely on the ground of pendency of appeal his increment could not be stopped and his pensionary benefits would be affected. The learned counsel for the Petitioner submitted that it was a case of major penalty and not a minor penalty. If that be so, the appeal would not be maintainable before the Deputy Director of Education under the proviso to Rule 29 of the MEPS Rules which permits an appeal only in case of minor penalties. That being the position, the further appeal of the Respondent- Management filed before the Deputy Director would have no efficacy in law. This would mean that the Petitioner is challenging the order dated 13 September 1998 of stoppage of one increment permanently by filing a petition in 2021.

4. The Petitioner has taken voluntary retirement in the year and he was relieved from the services on 31 September 2007. Once the voluntary retirement was taken, then at least at that time the Petitioner should have filed the writ petition.

5. Nothing stopped the Petitioner in applying this Court by way of a writ petition earlier. First, the Petitioner approached the Deputy Director of Education in appeal, which was not maintainable, and took a chance. Thereafter even after voluntary retirement in the year 2007, the petition was not filed immediately. Therefore, the challenge to the order imposing penalty almost after 20 years is hopelessly belated.

6. Writ petition is rejected

(M.M. SATHAYE, J.)

(NITIN JAMDAR, J.)