



## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## CIVIL APPELLATE JURISDICTION

## WRIT PETITION NO.3145 OF 2012

Raut (Mrs) Sadhana Nitin. ...Petitioner  
-Versus-  
1.Maharashtra Education Society & Ors. ...Respondents

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Mr.Subhash Langote i/b. Mr.V.A.Madane, for the Petitioner.

Mr.Neel Helekar, for Respondent nos.1 and 2.

Mr.A.D.Kango, AGP for Respondent no.3.

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**CORAM: G. S. KULKARNI, J.**

**DATE : 8<sup>th</sup> AUGUST, 2014**

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**P.C.:-**

1. Heard Mr.Langote, learned Counsel appearing for petitioner, Mr.Helekar, learned Counsel appearing for respondent nos.1 and 2 and Mr.Kango, learned AGP for Respondent no.3.

2. The challenge in this Writ Petition is to the judgment and order dated 8.12.2011 passed by the learned Presiding Officer, School Tribunal, Pune Region, Pune. By the impugned judgment and order the School Tribunal has rejected the appeal filed by the petitioner against the order of termination dated



1.12.2010. The respondent – Management had declared by communication dated 1.12.2010 which was impugned in the appeal by the petitioner before the Tribunal that the services of the petitioner has come to an end in view of resignation tendered by the petitioner to the Management and as accepted by the Management.

3. The petitioner had approached the Tribunal and urged that the resignation was not a voluntary resignation and was forcibly obtained from the petitioner. Most pertinent issue raised on behalf of the petitioner before the Tribunal was that even assuming that the resignation was submitted by the petitioner, however, the same was not accepted by the Management and the fact of acceptance was never communicated to the petitioner. The petitioner, in fact, before any communication of acceptance of the resignation, by her letter dated 21.10.2010 had withdrawn the resignation.

4. Prima facie from the facts and circumstances as brought on record before the School Tribunal raises a serious doubt, firstly as to whether the resignation was a voluntary resignation, and further there appears no material on record which goes to show that the acceptance of resignation was communicated to the petitioner so as to sever the relationship between the employer and employee. The acceptance of resignation and communication thereof is the basic aspect which is required to be taken into consideration to appreciate as to whether the services of an employee have come to an end. Apart from the fact



that there is no communication whatsoever which is placed on record on the part of the Respondent-Management and received by the petitioner to show that the resignation letter was accepted. It is significant that the petitioner by her letter dated 21.10.2010 had withdrawn the resignation. The reasoning as adopted by the Tribunal, prima facie, appears to be not in consonance with the settled principles of law in respect of severance of the relationship of employer and employee under the resignation. It is undisputed that the resignation in such cases is bilateral and prima facie there is clear non communication of the acceptance of resignation. The contention on behalf of the Respondent-Management as raised before the Tribunal that a resolution was passed by the Management to accept the resignation, however, prima facie cannot stand the test of law, unless there is communication of acceptance of resignation on the basis of resolution. In the light of the aforesaid discussions, the petitioner has made out a prima facie case for admission of this Writ Petition.

5. Hence, Rule.
6. Hearing expedited.
7. At this stage, Mr.Langote, learned Counsel for the petitioner submits that there is vacancy and if the Respondent – Management considers that the Petitioner can be accommodated, it would serve the end of justice to the Petitioner. Mr.Helekar, learned Counsel for the respondents – Management fairly states that he would take instructions on this submission of Mr.Langote and



whether if a vacancy is available, whether the petitioner can be accommodated.

8. The parties are at liberty to have an interim arrangement without prejudice to their rights and contentions in the petition. List the matter for directions on this issue after four weeks.

**(G. S. KULKARNI, J.)**