

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

WRIT PETITION NO. 11695 OF 2014

1. The Secretary,
Faizul-U-Loom Education
Society, Postman Colony,
Khandoba Bazar Road, Parbhani,
Ta. And Dist. Parbhani.

2. The Headmaster,
Fatima High School
Rehmat Nagar, Parbhani,
Tq. And Dist. Parbhani.

...PETITIONERS

versus

1. Shaikh Yusuf S/o Shaikh Ahemad,
Age: 42 years, Occu. Absent from duty
R/o Rehmat Nagar, Parbhani,
Tq. And Dist. Parbhani.

2. The Education Officer(Secondary)
Zilla Parishad, Parbhani.
Tq. And Dist. Parbhani.

...RESPONDENTS

WITH

WRIT PETITION NO. 11690 OF 2014

1. The Secretary,
Faizul-U-Loom Education
Society, Postman Colony,
Khandoba Bazar Road, Parbhani,
Ta. And Dist. Parbhani.

2. The Headmaster,
Fatima High School
Rehmat Nagar, Parbhani,
Tq. And Dist. Parbhani.

...PETITIONERS

versus

1. Shaikh Nayeem Shaikh Kalim,
Age: 31 years, Occu. Absent from duty
R/o Nanal Peth, Parbhani,
Tq. And Dist. Parbhani.

2. The Education Officer(Secondary)
Zilla Parishad, Parbhani.
Tq. And Dist. Parbhani. ...RESPONDENTS

WITH
WRIT PETITION NO. 11693 OF 2014

1. The Secretary,
Faizul-U-Loom Education
Society, Postman Colony,
Khandoba Bazar Road, Parbhani,
Ta. And Dist. Parbhani.
2. The Headmaster,
Fatima High School
Rehmat Nagar, Parbhani,
Tq. And Dist. Parbhani. ...PETITIONERS

versus

1. Abdul Rahim S/o Abdul Jabbar,
Age: 39 years, Occu. Absent from duty
R/o Rehmat Nagar, Parbhani,
Tq. And Dist. Parbhani.
2. The Education Officer(Secondary)
Zilla Parishad, Parbhani.
Tq. And Dist. Parbhani. ...RESPONDENTS

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Mr. Vivek J. Dhage , Advocate for Petitioners
Mr. S.S. Jadhavar, Advocate for respondent No.1 in all petitions

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 30th MARCH, 2015

Order :-

1. The petitioners-original respondents aggrieved by order dated 14-11-2014, passed by learned Presiding Officer, School Tribunal, Latur, allowing applications for condonation of delay of

45 days caused in preferring respective appeals subject to payment of certain costs, are before this Court.

2. Learned counsel for petitioners vehemently contends that impugned order suffers from infirmity of non application of mind on the relevant aspects, for, according to him, although say to the applications for condonation of delay on behalf of present petitioners-respondents was already placed on record, it has been observed that same was not properly filed. According to him, say on behalf of original respondents was filed on proper verification, and as such, said aspect ought not to have been dealt with while deciding the applications seeking condonation of delay.

3. Respondent No. 1 in the petitions are appellants before the School Tribunal. They had challenged the order of oral termination of their services on 28-08-2013. They had presented their respective appeals along with applications for condonation of delay of 45 days caused in preferring the appeals. Several contentions had been raised on either side on the delay condonation applications before the Tribunal. The Tribunal for reasons, as contained in paragraphs No. 11 to 20 in the order impugned in these petitions, had deemed it appropriate to condone the delay subject to payment of costs.

4. Although, learned counsel for petitioners vehemently submits that reasons recorded in the order impugned are not proper and there is no sufficient cause, taking into account legal position so far as matters relating to delay condonation are concerned, it cannot be gainsaid that liberal approach has to be adopted. Perusal of impugned order shows that the reasons as have been referred to in aforesaid paragraphs cannot be said to be perverse and not adhering to the facts. The discretion appears to have been exercised judiciously by the tribunal and is seldom be liable to be faulted with in the discretionary powers under Article 226 and 227 of the Constitution of India. This being the position, I am not inclined to interfere with order impugned.

5. Since learned counsel for petitioners apprehends that rejection of petitions would result in obstructing their defence to be taken in the appeals, they request for keeping open all the points in defence to be taken by them in the appeals. Needless to refer to that the order passed in these petitions is limited only to the applications for condonation of delay and not anything further. This order would not be an impediment for defence to be taken in appeal, save and except objection to the appeals on the ground of limitation, however, petitioners shall not procrastinate the proceedings in appeal for said purpose.

6. The petitions, thus, stand rejected.

7. It is further made clear that none of the observations herein before shall be deemed to have been made on merits of the appeals.

8. Learned counsel for petitioners in writ petition fairly submits that since apprehension is being expressed by the original appellants/ respondents No. 1 in respective writ petitions that they are not being allowed to join, responsible officer from the office of respondent No. 2 - Education Officer may be deputed on his behalf so that in his presence appellants/ respondent No. 1 would assume charge of their respective posts. Respondent No. 2 may depute Officer on his behalf to do the needful in that behalf. Such an exercise shall be done as early as possible preferably within a period of two weeks, from the date of receipt of writ of this order.

9. With above observations, writ petitions stand disposed of.

Sd/-

(SUNIL P. DESHMUKH, J.)

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