

JPP

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

CIVIL WRIT PETITION NO. 6710 OF 2014

Balasaheb Ganpati Sathe.

... Petitioner.

V/s.

Shri Swami Vivekanand Shikshan
Sanstha, Kolhapur and Ors.

... Respondents.

Mr. D.D. Ranaware for the Petitioner.

Mr. Pravin Mandlik, Sr. Advocate i/b. Yogesh Jaybhaye for
Respondent 1.

Mr. A.G. Kango, AGP for Respondent 2.

Mr. R.J. Godbole i/b. Sooraj Hulke for Respondents 3 to 16.

CORAM : N.M. JAMDAR, J.

DATE : 11 SEPTEMBER, 2015.

P.C. :-

By this Petition the Petitioner challenges the order passed by the School Tribunal, Kolhapur dated 17 January 2014 refusing to condone the delay in the Appeal filed by the Petitioner.

2. The Petitioner filed an Appeal bearing No. 18 of 2013

under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulations Act, 1977 in the School Tribunal, Kolhapur. The Petitioner challenged the seniority list fixed by the Education Officer, Kolhapur on 30 April 2013, sought to set aside the promotions given to Respondents 3 to 16 and consequently issue a direction to promote the Petitioner to the post of Headmaster. The School Tribunal, Kolhapur considering the facts and circumstances, by a detailed order, dismissed the application for condonation of delay.

3. As the School Tribunal has noted, the limitation provided in Section 9(2) of 30 days applies to the Appeals filed challenging the orders of dismissal, removal, termination or reduction in rank. Section 9(3) provides for condonation of delay. Section 9 does not lay down a period of limitation for challenging the action of supersession. The School Tribunal relied on various decisions more particularly the decision in the case of *the Secretary, Shiorai Education Society Vs. The Presiding Officer & Ors. [2000 (3) ALL MR 113]*, to hold that the action of supersession must be challenged within reasonable time. This position is not disputed.

4. The promotions given to Respondent Nos. 3 to 16, which are challenged, range from the year 1998 to 2010 and the Appeal is filed in July 2013. The prayer regarding setting aside the promotions therefore, is made after almost 15 years. In effect

the promotions given to 13 teachers in the preceding 15 years has been challenged by the Petitioner. The School Tribunal has rightly taken into account this position to hold that the Petitioner did not approach the School Tribunal within reasonable time. Such belated challenges disrupt and affect the functioning of the school as the school and the staff gets involved in needless litigation, rather than focusing on imparting education.

5. As regard the challenge to the confirmation and fixation of seniority list by the Education Officer, the School Tribunal relied upon the full bench decision of this Court in *St. Ulai High School and Ors. Vs. Devendra Prasad Jagannath Singh [2007(1) Mh.L.J. 597]*. Nothing is shown as to how this conclusion of the Tribunal is incorrect. The Appeal therefore is restricted to the challenge of supersession and promotions of Respondent Nos. 3 to 16.

6. The learned Counsel for the Petitioner submitted that the Petitioner was litigating regarding his placement in seniority list in various forum including this Court and therefore, there was a delay. The Tribunal has rightly noted that nothing stopped the Petitioner from filing an appeal in the School Tribunal especially since the Petitioner is seeking to set aside the promotion granted to other employees. Even today the Petitioner is not satisfied with its fixation of seniority list and is pursuing his challenge.

7. In the circumstances, no fault can be found with the order passed by the School Tribunal, Kolhapur that the Appeal filed by the Petitioner was not within reasonable period. The Writ Petition therefore cannot be entertained and the same is rejected.

(N.M. JAMDAR, J.)

C E R T I F I C A T E

Certified to be true and correct copy
of the original signed Order.