

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2510 OF 2015

Mahendraprasad Roopnarayan Dube .. Petitioner
VS.
Head Master, Esplanade High School
& Junior College & Ors. .. Respondents

Mr. Jaydev Trivedi for Petitioner.
None for Respondents.

CORAM : M. S. SONAK, J.
DATE: 11 MARCH 2015

P.C. :-

- 1] **Not on Board. Upon production, taken on board.**
- 2] This petition is directed against order dated 11 February 2015 made by the School Tribunal, Mumbai, allowing the respondent no. 1 to file written statement, after recalling its earlier "No W.S. Order". Such application has been allowed subject to payment of costs of Rs.1,000/- to the petitioner.
- 3] The learned counsel for the petitioner has made the following submissions in support of this petition :
 - (A) That the School Tribunal has no powers of review, since powers of review are never inherent. In this regard, reliance was placed upon a decision of Hon'ble Apex Court in

the case of *Patel Narshi Thakershi & Ors. vs. Pradyumansinghji Arjunsinghji*¹;

(B) In any case, the learned counsel submitted that review petition was filed 65 days after the 'No W.S. order' was made and consequently the same was barred by limitation as prescribed in Article 124 of the Limitation Act, 1963. In this regard, reliance was placed upon the decision of the Kerala High Court in the case of *A. Pookunju vs. State of Kerala & Ors.*²

4] Having considered the aforesaid submissions and perused the record, in my judgment, there is no reason to interfere with the impugned order. This is not a case of substantive review but only a case of procedural review. The Court or Tribunal is always deemed to possess incidental and ancillary powers, particularly in matters of procedure.

5] Further, since this was not a case of substantive review, there is no question of applicability of Article 24 of the Limitation Act, 1963. In any case, the delay, if any, was of hardly 35 days. Perusal of the impugned order would indicate that sufficient cause was made out. In the application made by the respondent, it was stated

1 AIR 1970 SC 1273

2 AIR 2013 Kerala 53

that the written statement was ready but due to examination pressure, the respondent went to Uttar Pradesh during summer vacation and written statement remained to be filed.

6] In the aforesaid circumstances, there is no reason to entertain the present petition. However, the School Tribunal is directed to dispose of appeal no. 16 of 2012 expeditiously and in any case within a period of two months from today.

7] Petition is disposed of in the aforesaid terms.

8] All parties to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)

Chandka