

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

WRIT PETITION STAMP NO.12700 OF 2015

Ram Avtar Sundar : Petitioner
versus
The State of Maharashtra
Through the Dy. Director of Education & ors. : Respondents.

Mr. A A Deshpande for the Petitioner.
Ms. M S Bane "B" Panel Counsel for the Respondent Nos.1 and 2.

CORAM : R. M. SAVANT, J.
DATE : 12th August 2015

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 21/02/2015 passed by the learned Presiding Officer, School Tribunal, Mumbai by which order the Application (Exhibit 17) filed by the Petitioner seeking condonation of delay of 334 days in filing the Appeal came to be rejected.

2 The Petitioner sought to challenge the termination of his services which had taken place on 4/2/2012 by filing an Appeal in the year 2013. As the said Appeal was belated, this Court in the earlier round had directed the Petitioner to file an application for condonation of delay in filing the Appeal. The Petitioner accordingly filed the instant application for condonation of delay which was numbered as Exhibit 17.

3 The delay was sought to be justified by the Petitioner on the ground that on 3/2/2012 when he went to report for duties in the school he was told not to come for work and later on he came to know that the Education Department had refused to grant approval to the Petitioner. It is the case of the Petitioner that from 4/2/2012 to 7/1/2013 he was taking treatment at his native place as he had suffered a shock on account of the termination of his services, in support which case the Petitioner has annexed the documents which according to the Petitioner are the medical certificates. It is the case of the Petitioner that he came to know of his termination after he addressed a letter dated 11/1/2013 to the Head Master of the School to which the Head Master replied vide his letter dated 19/1/2013 informing the Petitioner that the Education Department has not accorded approval to the Petitioner's appointment. Hence the Petitioner challenged the termination order dated 4/2/2012 by filing the Appeal on 5/2/2013. The Petitioner therefore prayed for condonation of delay.

4 The said application filed by the Petitioner was vehemently opposed on behalf of the Education Department as also the management. It was contended on behalf of the Education Department before the Tribunal that the Vice Chancellor of Sampurnanand Sanskrit Vishva Vidyalaya informed the Education Department that the degrees produced by the Petitioner are bogus.

It is pursuant to the said letter that the Education Department addressed a letter to the management on 3/2/2012 pursuant to which the Petitioner's services came to be terminated on 4/2/2012. The Education Department also directed vide the said letter to lodge a criminal case against the Petitioner. It was the case of the Education Department that it is on acquiring the knowledge of the aforesaid fact that the Petitioner went to his native place without informing the school and the management and was virtually absconding. It was further the case of the Education Department that the Petitioner had filed an application for bail before the JMFC, Borivali on 8/10/2012 in which the Petitioner had mentioned that his services were terminated on 3/2/2012. Hence it was the case of the Education Department that the Petitioner was very well aware of the termination of his services when he filed the bail application on 8/10/2012. It was therefore the case of the Education Department that the Petitioner had not come to the Court with clean hands and therefore the application for condonation of delay be rejected.

5 The Tribunal considered the said application filed by the Petitioner and tested the case of the Petitioner. The Tribunal observed that the documents on which the Petitioner places reliance i.e. the medical certificates are in fact the prescriptions which only prescribe medicines and directs that blood pressure should be checked on a regular basis. The Tribunal held that the said prescriptions cannot be called as Medical Certificates.

6 I have with the assistance of the learned counsel for the Petitioner gone through the said prescriptions. In my view, the said prescriptions cannot further the case of the Petitioner in pursuing the application for condonation of delay of 334 days in filing the Appeal. The Tribunal has rightly observed that by the said prescriptions what has been done is that the medicines have been prescribed and that the Petitioner has been asked to check his blood pressure regularly. A reading of the said prescriptions do not disclose that the Petitioner was suffering from any debilitating illness so as to prevent him from adopting the appropriate remedy against his termination dated 4/2/2012. It is also required to be noted that the Petitioner claims that he was at his native place between 4/2/2012 to 7/1/2013 in fact he had filed the application for bail on 8/10/2012. Hence the factum of the bail application being filed by the Petitioner belies his case that he was at his native place through out the said period. The said fact therefore casts a serious doubt and dents the case of the Petitioner. It is also required to be borne in mind that the Sampooranand Sanskrit Vishva Vidyalaya had informed the Education Department that the degrees produced by the Petitioner were bogus.

7 In so far as the huge delay of 334 days of which condonation is seeking is concerned, it is well settled by the judgments of the Apex Court that the approach of Court whilst considering the application for condonation of

delay has to be judicious and that highly technical and pedantic approach should be eschewed. In my view, the reasons put forth by the Petitioner hardly inspire confidence and do not justify the huge delay of 334 days in filing the Appeal. In that view of the matter no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]