

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

WRIT PETITION NO. 10095 OF 2015

Amarjyot Tarun Mandal Shikshan
Sanstha through its President & anr. ... Petitioners
v/s
Ghode Dada Dattu & anr. ... Respondents

***ALONGWITH
WRIT PETITION NO. 10293 OF 2015***

Amarjyot Tarun Mandal Shikshan
Sanstha through its President & anr. ... Petitioners
v/s
Ghorpade Santosh Banan & anr. ... Respondents

***ALONGWITH
WRIT PETITION NO. 10294 OF 2015***

Amarjyot Tarun Mandal Shikshan
Sanstha through its President & anr. ... Petitioners
v/s
Kharche Ashok Raghunath & anr. ... Respondents

***AND
WRIT PETITION NO. 10296 OF 2015***

Amarjyot Tarun Mandal Shikshan
Sanstha through its President & anr. ... Petitioners
v/s
Jadhav Vaibhav Vinayak & anr. ... Respondents

Mr.Subhash Langote i/by V.A.Madane for the petitioner in all petitions.

Mr.A.D.Kango, A.G.P for Resp. No.2 in all petitions.

CORAM: N.M. JAMDAR, J.

DATED : 20 NOVEMBER 2015

ORAL ORDER:

By this group of petitions, the Petitioners challenge the order passed by the School Tribunal, Pune, condoning the delay of six months in filing the appeals by the Respondents with costs of Rs.3000/- payable to the Petitioners.

2. The Respondents filed their respective appeals challenging their terminations from service on the ground that they were made to forcibly resign from service. It was the case of the Respondents that they were appointed as assistant teachers and that one day they were called by the Petitioner management after the school break and forced to resign from service. They filed their appeals by contending that though they realized their mistake, but under the fear and threat to their life, they did not make any complaint to the police immediately. Thereafter they made complaint to the Education Officer stating that their resignations have been forcibly obtained and applied for documents under the Right of Information Act and thereafter filed the appeals. The respondents also filed the applications for condonation of delay. In the applications, it was stated by the Respondents that the documents were not readily available for which they made an application and it took some time to take legal advise and, therefore, there was delay in filing the

appeals. The applications were resisted by the Petitioner management. The School Tribunal, by the impugned order, as stated above, allowed the applications. Hence the present petitions.

3. Learned counsel for the Petitioners submitted that the School Tribunal has not given any cogent reasons for allowing the applications. According to him, the Respondents suppressed various documents and the fact that they were employed elsewhere. He also submitted that various decisions regarding the scope of condonation of delay were cited before the School Tribunal, however, they were not considered and delay has been casually condoned.

4. The Petitioners have approached this Court in writ jurisdiction. The delay in filing the appeals is of six months. In the appeals, order of termination has been challenged and the appellants do not get any advantage by challenging their appeals late. It is not that there is no cause pleaded at all. When delay is condoned, it is a positive use of discretion and the enquiry in extraordinary jurisdiction will be limited to ascertain whether use of discretion can be termed as perverse, and to ascertain the prejudice caused. If the delay is not condoned, then the parameters are different.

5. The School Tribunal, in the impugned order, has stated that

the Respondents approached the educational authorities and the headmaster, for collection of documents, and also sought legal advise. They obtained certain documents under the Right to Information Act and time was taken for collection of documents. This reason, which has been accepted by the School Tribunal, cannot be termed as perverse, so as to warrant interference in writ jurisdiction. The argument advanced by the learned counsel for the Petitioners regarding the employment of Respondents during the relevant period and other suppression of documents, would be on the merits of the claim of the Respondents as to why they made the grievance regarding the forcible resignation after certain period of time. Therefore, it will suffice and it will be in the interest of justice to clarify that the findings of the School Tribunal while condoning the delay in filing the appeal will not come in the way of Respondents at the time of hearing of the appeals and the factum of Respondents challenging their resignations after certain period will be considered on its own merits by the School Tribunal. It is also clarified that, in case the Respondents succeed in the appeals and are held to be entitled to monetary benefits, the period of the delay which is condoned, will also be considered by the School Tribunal.

6. In view of these clarifications and the costs having already been imposed, it is not necessary to interfere with the impugned orders.

7. The writ petitions are accordingly rejected.

(N. M. JAMDAR, J.)

