

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (CAW) NO.353 OF 2015
IN
WRIT PETITION NO.2916 OF 2013 (D

Khwajababa Education Trust, Loni & Anr.

-vs-

Abdul Akeel Abdul Gaffar & Anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri C.A. Babrekar, Advocate for applicants.

Shri P. C. Madkholkar, Advocate for respondent No.1.

CORAM : A.S.CHANDURKAR J.

DATE : MARCH 04, 2015.

Prayer is to recall the judgment dated 08/01/2015 on the ground that present applicants could not contest the Writ Petition when it was heard and decided.

In the application, it is stated that the date in the notice was mentioned as 07/01/2015. On said date, the case was not listed. It was listed on 08/01/2015.

The learned counsel who was engaged earlier on behalf of the applicants could not mark the matter and hence the Writ Petition came to be decided in absence of counsel for the present applicants. It is further stated that earlier Writ Petition filed by the original petitioners being Writ Petition No.5553 of 2010 was not related with the order of termination but same was in respect of withdrawal of financial and administrative powers. It is therefore stated that one chance may be given to the present applicants to contest the Writ Petition on merits.

It is not in dispute that present applicants were duly served with the notice. The Writ Petition was taken up for consideration after 07/01/2015 which was the date mentioned in the notice. The Writ Petition was heard on 08/01/2015 as notice for final hearing was duly served.

As regards filing of earlier Writ Petition No.5553 of 2010 by the original petitioner, it is observed by this Court in paragraph 6 of its judgment that the learned Presiding Officer had found that there was sufficient cause for not filing the appeal till said Writ Petition was withdrawn on 27/07/2011. It is to be noted that in paragraph 7 of the application for condonation of delay filed by the original petitioner before the School Tribunal, it was stated that during the course of hearing of the said Writ Petition, it was found that the services of the petitioner had been terminated on 05/11/2009. Said finding was therefore recorded by the learned Presiding Officer in paragraph 16. Hence, I do not find any sufficient cause for recalling the judgment dated 08/01/2015. The other contentions on merits can be addressed by the present applicants in the Appeal before the School Tribunal.

Civil Application is dismissed with no order as to costs.

JUDGE