

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**WRIT PETITION NO.1545/2015**

Bhandara Zilla Bahuudeshiya Apang Vikas Sanstha, Naka Dongri

..Versus..

Presiding Officer, School Tribunal, Nagpur and others

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

**CORAM : Z.A. HAQ, J.**

**DATE : 6.7.2015**

Heard Shri S.S. Shingane, the learned advocate for the petitioner, Shri P.A. Jibhkate, the learned advocate for the respondent no.4, Shri T.R. Kankale, the learned A.G.P. for the respondent no.1 and Shri N.S. Khubalkar, the learned A.G.P. for the respondent no.3.

The petitioner/Management has filed this writ petition challenging the order passed by the School Tribunal allowing the application filed by the respondent no.4 praying for condonation of delay in filing the appeal. The petitioner/Management has also challenged the order passed by the Tribunal rejecting the application filed by it praying that the appeal filed by the respondent no.4 be dismissed.

The services of the petitioner were terminated. The petitioner had filed appeal before the Divisional Social Welfare Officer, which was allowed. The Management had filed Writ Petition No.3617/2008 before this Court challenging the order passed by the Divisional Social

Welfare Officer. The Division Bench of this Court by the judgment dated 19<sup>th</sup> October, 2010 allowed the Writ Petition No.3617/2008 and concluded that the Divisional Social Welfare Officer has no jurisdiction to entertain and decide the appeal filed by the respondent no.4. The Division Bench, however, had permitted the respondent no.4 to file appeal before the School Tribunal and observed that the appeal be filed within 15 days. Subsequently, the respondent no.4 filed an application seeking review of the judgment passed on 19<sup>th</sup> October, 2010. The review application came to be dismissed. After dismissal of the review application, the respondent no.4 has filed appeal before the School Tribunal. As there was delay in filing the appeal before the School Tribunal, the respondent no.4 filed an application praying for condonation of delay. The petitioner also filed an application praying that the appeal filed by the respondent no.4 be dismissed as it was not filed within 15 days as permitted by this Court by the judgment passed in Writ Petition No.3617/2008.

The Tribunal has allowed the application filed by the respondent no.4 and has condoned the delay in filing the appeal. As the delay has been condoned, the application filed by the petitioner praying for dismissal of the appeal is dismissed. The petitioner being aggrieved in the matter, has filed this petition.

The learned advocate for the petitioner has submitted that the Tribunal could not have condoned the delay overlooking the observations of this Court in the judgment given in Writ Petition

No.3617/2008. It is further submitted that the conduct of the respondent no.4 dis-entitles him for the discretionary order.

The submission made on behalf of the petitioner cannot be accepted. The respondent no.4 cannot be rendered remediless. Considering the facts of the case, it cannot be said that the Tribunal has committed any illegality or overstepped its jurisdiction by allowing the application filed by the respondent no.4 praying for condonation of delay in filing the appeal. Moreover, the respondent no.4 is out of employment. The petitioner has not been able to point out that the respondent no. 4 has gained any advantage or that the petitioner is prejudiced because of the delay caused in filing the appeal.

I do not see any reason to interfere with impugned order. The petition is dismissed with costs quantified at Rs.5,000/- (Rs. Five Thousand Only) to be paid by the petitioner to the respondent no.4 within one month, failing which the Tribunal shall pass appropriate orders in the matter considering it to be non-compliance of the orders of this Court.

**JUDGE**