

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

**CAO NO. 1162/2014 IN MCA ST. NO. 16178/2014 IN**  
**WRIT PETITION NO. 4440 OF 2012**

(Gram Vikas Mandal Karanja (Ghatge), district Wardha, thr. its Secretary S.S. Chopde vs. State of Maharashtra thr. its Secretary, Ministry of Social Justice and Welfare & Ors.)

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

Court's or Judge's orders.

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**CORAM : B.P. DHARMADHIKARI &  
P.B. VARALE, JJ.  
APRIL 10, 2015.**

Heard Shri Chopde, learned counsel for the applicant – petitioner, Shri Kankale, learned AGP notice for respondent Nos. 1 to 3 and Shri Madkholkar, learned counsel for respondent No. 4.

2. The prayer is to condone delay of 512 days in filing MCA. Shri Chopde, learned counsel has invited our attention to para 16 of CAO to explain delay of about 500 days. There, he has pointed out that JMFC, Karanja has acquitted all applicants on 01.01.2014 and after expiry of period of three months available to prosecution to file appeal, the representation was made to the State Government on 14.04.2014 for permission to restart the School. That representation was not decided and ultimately a writ petition was filed before this Court.

3. The request is being opposed by Shri Madkholkar, learned counsel and the learned AGP.

4. Shri Madkholkar, learned counsel submits that the

offences were bailable and applicants nowhere state that they were in custody. As such, if the review was necessary, it could have been filed immediately. He, however, points out that no grounds in law are made out in present matter for invoking review jurisdiction.

5. The learned AGP has invited our attention to the order by which notice was issued in present proceedings and to page 32 of writ petition to show that appeal claimed to be pending was actually disposed of and it was so communicated on 02.09.2009 to the applicants.

6. In prayer clause in writ petition, a direction is sought to the respondents to reconsider that appeal. In the background of that prayer and in the light of arguments advanced, we have disposed of Writ Petition No. 4440 of 2012. The finding of this Court is the transfer of closed School to Respondent No. 4 in writ petition on 14.09.2011, almost after two years of dismissal of appeal.

7. On 16.01.2015, the effort of learned counsel was to demonstrate that appeal against the order of closure of School dated 04.08.2009 was very much pending on 15.02.2013 when writ petition was disposed of. In view of that effort, we issued notice in the matter.

8. The learned AGP has invited attention to communication dated 02.09.2009. The said communication is addressed to the Secretary of the applicant – association. It expressly informs him that the society was heard earlier and after hearing, the approval of Ashram School was cancelled, hence, it was not necessary to hear the matter

again. This communication, therefore, disposed of the appeal. As such, it cannot be said that the appeal was pending on 15.02.2013. Thus, very premises which prompted this Court to issue notice on 16.01.2015 is non-existent.

9. In this situation, it is apparent that no case is made out for condonation of delay or on merits. Civil application is disposed of accordingly. No costs.

**JUDGE**

**JUDGE**

\*GS.