

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

CIVIL APPLICATION NO. 13021 OF 2016
IN
REVIEW APPLICATION (STAMP) NO.3015 OF 2014

WITH
REVIEW APPLICATION (STAMP) NO.3015 OF 2014
IN
WRIT PETITION NO.7968 OF 2011

RAMCHANDRA BHADU MAHAJAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.

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Advocate for Applicants : Shri Bharaswadkar Raghvendra N.
AGP for Respondents 1 and 2 : Shri S.P.Sonpawale.
Advocate for Respondents 3 to 5 : Shri S.B.Yawalkar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 30th November, 2016

Per Court:

1 Civil Application No.13021/2016 filed by the Applicant is for condonation of delay of 694 days in filing the review application in relation to the order dated 13.02.2012 in Writ Petition No.7968/2011. For the reasons stated, the delay is condoned and the Civil Application is allowed. Review Petition is heard by consent.

2 Shri Bharaswadkar, learned Advocate, who appears for the

Applicant, had appeared for the same Applicant who was the Petitioner in Writ Petition No.7968/2011. After hearing the litigating sides, this Court had delivered its order dated 13.02.2012 by which the petition was partly allowed and the Respondents were directed to pay six months salary to the Applicant herein and release his salary of 12 months on or before 31.03.2012.

3 Shri Bharaswadkar submits that the deemed permanency provided under Section 5 of the MEPS Act, 1977 and the scope of the powers to be exercised by the School Tribunal under Sections 9 and 11 of the MEPS Act, 1977 are not properly considered. He submits that without considering the original record, the Writ Petition was decided. Some papers were not with the Review Applicant while conducting the Writ Petition and hence, the order passed by this Court dated 13.02.2012 deserves to be reviewed.

4 I have heard the learned Advocates for the respective sides and with their assistance, I have considered the grounds raised by the Applicant in the memo of the review petition.

5 Having considered the order passed by this Court dated 13.02.2012, I find that the case of the litigating sides before this Court

was quite obvious that there was no letter of appointment issued to the Applicant/ Petitioner. Though the Applicant had worked only in the academic year 1990-1991 in the leave vacancy of Mr.Dandwate and in the academic years 1998-2000, he was not granted regularization. The fact remains that the said post was not filled in by following the due procedure.

6 The Review Applicant had applied for the post on 20.05.1999 pursuant to the advertisement and he was not selected as an Assistant Teacher as he failed in the selection process. Considering that the Review Applicant had worked in two spells for about four years, though on leave vacancy and temporarily, the School Tribunal exercised its powers under Section 11 and granted six months salary by way of compensation which was sustained by this Court.

7 Considering the above, I do not find that the Applicant has made out any case of an error apparent on the face of the order. So also the Review Petition cannot be entertained as like an appeal or as like of allowing the Review Applicant to re-argue his Writ Petition, in the light of the ratio laid down by the Honourable Supreme Court in the matter of *Lily Thomas vs. Union of India*, **AIR 2000 SC 1650**.

8 In the light of the above, I do not find any merit in the Review
Petition and the same is rejected.

9 No costs.

kps

(RAVINDRA V. GHUGE, J.)