

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4797 OF 2016
(ABHAYKUMAR CHANDULAL AMBHURE VS. DNYANOPASAK
SHIKSHAN MANDAL'S COLLEGE AND OTHERS)

WITH

WRIT PETITION NO.4798 OF 2016
(BABARAO SHRIRANGRAO SHINDE VS. DNYANOPASAK SHIKSHAN
MANDAL'S COLLEGE AND OTHERS)

Mr.V.P.Golewar and Mr.P.S.Burshe, Advocate for the petitioners.
Mrs.S.S.Raut, AGP for respondent Nos. 3 and 4.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 03/05/2016

PER COURT :

1. The petitioner is aggrieved by the impugned order of the School Tribunal dated 12/02/2016 by which Appeal No.49/2013 and 48/2013 respectively have been disposed of with liberty to file an application for condonation of delay.

2. Mr.Golewar, learned Advocate for the petitioner has drawn my attention to the order of termination dated 29/05/2013 by which both the petitioners have been terminated with retrospective effect from 01/08/2012.

3. He, therefore, submits that though the petitioners claim that

they have been orally relieved on 01/08/2012, they were not formally terminated until the order dated 29/05/2013 was passed. He submits that both the petitioners have filed their appeals on 16/12/2013. Both of them have received their formal orders of termination on 16/11/2013 and 18/11/2013 by Post and hence their appeals are within limitation u/s 9 of the M.E.P.S. Act, 1977.

4. Mr.Golewar, therefore, strenuously contends that the Tribunal should have considered this aspect and should have therefore decided the appeals on its merits. Without framing any issue with regard to delay in the matter and after conducting a complete adjudication of the appeals, the Tribunal has sprung a surprise by concluding that since the termination is w.e.f. 01/08/2012, the appeals are beyond limitation.

5. I have considered the submissions of the learned Advocate. Considering that I am not interfering with the impugned orders, I am not issuing notice to the respondents.

6. Though I find it unusual on the part of the School Tribunal, Latur in not framing an issue with regard to limitation and disposing of the appeals on the ground of limitation after conducting a regular

adjudication of the appeals, nevertheless, the petitioners are not rendered remediless. They have been granted liberty to prefer an application for condonation of delay.

7. It is only after considering that the Tribunal has granted liberty to the petitioners to file an application for condonation of delay pursuant to which the appeals would be decided on their merit and though the Tribunal has adopted an usual procedure, I am disposing of these petitions by directing the Tribunal to decide the applications for condonation of delay expeditiously.

8. In the light of the above, these petitions are disposed of with following directions :

- [a] The petitioners shall file an application for condonation of delay within 4 (four) weeks from today and the Office of the School Tribunal shall accept the said applications even during vacation.
- [b] The Tribunal shall decide the said applications after hearing all the sides as expeditiously as possible, and preferably on or before 30/09/2016. Needless to state, if the delay is condoned, the Tribunal shall register the appeals of the petitioners and decide them on its own merits without being influenced by any of its observations in the impugned judgment dated 12/02/2016.

- [c] While deciding the applications for condonation of delay, the Tribunal shall consider the scope of Section 9 of the MEPS Act, 1977 and the Rules applicable.
- [d] All contentions of the litigating sides are therefore kept open.
- [e] If the applications for condonation of delay are allowed, the Tribunal shall endeavour to expeditiously decide all the appeals considering the fact that all the pleadings are complete and shall not discard the pleadings in the written statement as well as the documents placed on record.

(RAVINDRA V. GHUGE, J.)