

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7855 OF 2016

Nizamuddin Mugni Siddiqi,
Age 48 years, Occ. Service
R/o Sillegaon, Tq. Gangapur,
District Aurangabad.

..Petitioner

Versus

1. State of Maharashtra
Through Secretary,
Education Department.

2. The Additional Commissioner,
Divisional Commissioner Office,
Aurangabad.

3. The Chief Executive Officer,
Zilla Parishad, Aurangabad.

..Respondents

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Advocate for Petitioner : Shri Shaikh Mazhar A. Jahagirdar
AGP for Respondents 1 & 2 : Shri S.B.Joshi
Advocate for Respondent 3 : Shri N.H.Yadav

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CORAM : RAVINDRA V. GHUGE, J.
Dated: October 19, 2016

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ORAL JUDGMENT :-

1. Heard learned Advocates for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the

petition is taken up for final disposal.

4. While issuing notice on 26.7.2016, I had observed as under:-

“1. The petitioner is aggrieved by the order dated 23/09/2015 passed by respondent No.2 by which his appeal u/s 13 and 14 of the Maharashtra Zilla Parishad District Services (Discipline and Appeals) Rules, 1964 has not been entertained. By the said order, the petitioner's application for condonation of delay has been rejected on the ground that there is a delay of 6 months.

2. I find that Rule 16 of the said Rules lays down the limitation of 3 months and the proviso to Rule 16 enables the Appellate Authority to entertain the appeal even beyond the expiry of the limitation period if the Authority is satisfied that there are sufficient reasons.

3. Issue notice to the respondents, returnable on 05/08/2016. Learned AGP waives service for respondent Nos. 1 and 2. Hamdast granted for serving respondent No.3.”

5. Learned AGP and the learned Advocate appearing for respondent No.3 have opposed this petition. Contention is that the delay of six months is inordinate and is not properly explained. Therefore, no fault can be found with the impugned order refusing

to condone the delay.

6. Having considered the submissions of the learned Advocates for the respective sides, I am of the view that respondent No.2 has followed a pedantic approach, in the light of the ratio laid down by the Honourable Supreme Court in the matter of Collector, Land Acquisition Anantnag and another Vs. Mst. Katiji and others [(1987) 2 SCC 107]. I do not find that the delay of six months can be said to be inordinate or deliberate. The petitioner gains no advantage by delaying his own matter. Laches have not been attributed to the conduct of the petitioner.

7. In the light of the above, this petition is allowed. The impugned order dated 23.9.2015 is quashed and set aside and the delay of six months is condoned by imposing costs of Rs.500/-, which the petitioner shall deposit with the Advocates Bar Association of Bombay High Court, Bench at Aurangabad within two weeks from today. Application for condonation of delay stands allowed and respondent No.2 shall, therefore, register the appeal filed by the petitioner.

8. Learned Advocates for the respective sides submits that they would appear before respondent No.2 on 18.11.2016 at 3.00 pm.

Respondent No.2, therefore, need not issue formal notices in this matter.

9. Rule is made absolute in above terms.

(RAVINDRA V. GHUGE, J.)

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