

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9017 OF 2016

The Head Master,
Baliram Patil Vidyalaya,
Cidco, N-9,
Aurangabad

-- PETITIONER

VERSUS

Subhash Jagannath Jadhav,
Age-53 years, Occu-Nil,
R/o Cidco, N-6,
Sinhagad Colony, M-2,
39/6, Aurangabad

-- RESPONDENT

Ms.Suvarna Wadkar h/f Mr.S.S.Jadhavar, Advocate for the petitioner.
Mr.Y.B.Bolkar, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/08/2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner is aggrieved by the impugned order dated 06/04/2016 by which Misc.Appl.No.11/2015 filed by the respondent herein seeking condonation of delay of 6 years and 4 months has been allowed.

3. I have heard the learned Advocates for the respective sides.

4. The respondent claims to be suspended on 30/04/2008 and was terminated on 07/01/2009. It is contended in the application for condonation of delay before the School Tribunal that the respondent was taking medical treatment during the period 01/09/2008 to 18/06/2011 with the Government Medical College and Hospital at Aurangabad. He got the knowledge of his termination on 13/04/2015 and therefore he filed the appeal. The School Tribunal has considered that there was no proof of service of order of termination on the respondent/appellant and hence delay needs to be condoned.

5. The other issue raised in this petition is that though the petitioner Head Master of the School and the Chairman of the Jr.College (read Principal) have been arrayed, the Secretary of the Vasantrao Naik Shikshan Prasarak Mandal, Aurangabad, has not been arrayed.

6. Though the learned Advocate for the respondent Mr.Bolkar has strenuously supported the impugned order, I do not find that the impugned order could be sustained. Mr.Bolkar submits that the

appellant had in fact approached the Education Officer. The Management was directed to reinstate the appellant. The direction was not complied with and therefore he approached this Court. The learned Division Bench, by order dated 10/04/2015, granted liberty to the appellant to avail of an appropriate remedy. These aspects do not find any reference in the impugned order by which the Tribunal has condoned the delay of about 6 years and 4 months.

7. In the light of the above, this petition is partly allowed. The impugned order dated 06/04/2016 is quashed and set aside and Misc.Appl.No.11/2015 is restored to the file of the School Tribunal, Aurangabad with the following directions :-

- (a) The litigating sides shall appear before the Tribunal on 01/09/2016 keeping in view that the appeal has been registered and is posted for hearing on the said date.
- (b) Needless to state, with the restoration of the Misc.application, the Tribunal shall not proceed with the main appeal.
- (c) The respondent is at liberty to delete respondent No.1 and add the President of Vasantrya Naik Shikshan Prasarak Mandal, Aurangabad.
- (d) The Tribunal shall, therefore, issue notice only to the newly added respondent and the Misc.application shall be decided

after hearing all the sides by passing a reasoned order.

8. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)