

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

WRIT PETITION NO. 12199 OF 2016

THE SECRETARY SANJAY MADHAVRAO ATMORE AND ANOTHER  
VERSUS  
THE EDUCATION OFFICER ZP NANDED AND ANOTHER

...  
Advocate for Petitioners : Shri Ghatge Mahesh V.  
AGP for Respondent 1 : Shri N.T.Bhagat.  
...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 14<sup>th</sup> December, 2016**

Per Court:

1           The Petitioner is aggrieved by the order dated 10.11.2016 delivered by the School Tribunal, Latur by which application Exhibit-36 filed by the Petitioner seeking dismissal of Appeal No.45/2014, has been rejected.

2           Shri Ghatge, learned Advocate for the Petitioner, has strenuously canvassed his grounds for challenge and has taken me through the petition paper book.

3           I find that Respondent No.2/ original Appellant has challenged three causes of action which are as under:-

- (a) The forceful resignation dated 19.06.2013.
- (b) The proposal dated 21.06.2013 seeking approval to the reduction of the Appellant from the post of Headmaster to a teacher.
- (c) Actual order of reversion dated 25.09.2013 by which he was reverted to the position of a teacher.

4           There is no dispute that by order dated 24.07.2014 passed by the School Tribunal, the delay of 205 days in challenging the cause of action dated 19.06.2013 was condoned. Writ Petition No.8635/2014 filed by the Petitioner was dismissed by this Court on 22.07.2015.

5           Writ Petition No.11382/2015 filed by the Petitioner for challenging the order of the School Tribunal entertaining the three causes of action in the same appeal, was also dismissed by order dated 02.12.2015.

6           The grievance of the Petitioner is that the cause of action as regards the order dated 25.09.2013 suffers from delay and the said delay has not been condoned. Application Exhibit-36 was filed for seeking dismissal of the appeal as the delay was not condoned by invoking Order 41 of the Code of Civil Procedure. The said application has been rejected.

7           It appears that the cause of action with regard to the purported forceful resignation dated 19.06.2013 resulted in the Respondent/ Appellant being removed from the post of Headmaster. This was followed by the proposal dated 21.06.2013 moved by the Management for seeking approval to the reduction and then the order dated 25.09.2013 actually posting the Appellant as a teacher, followed thereafter.

8           It is, therefore, apparent that the proposal dated 21.06.2013 and the reversion order dated 25.09.2013 are the result of the purported resignation 19.06.2013. Once the delay, for challenging the purported forceful resignation, of 205 days has been condoned by the School Tribunal and that order is sustained by this Court, lesser delay caused with regard to the proposal dated 21.06.2013 and the reversion order dated 25.09.2013 is rendered insignificant. Moreover, submitting the proposal cannot be a cause of action. The order of reversion would be a cause of action. It also cannot be ignored that if the appeal of the Appellant is allowed as against the forceful resignation dated 19.06.2013, subsequent events of 21.06.2013 and 25.09.2013 would be rendered infructuous as they would automatically stand set aside as "fait accompli".

9           In the light of the above, I do not find any reason to cause interference in the impugned order dated 10.11.2016. This Writ Petition being devoid of merit is, therefore, dismissed.

*kps*

**(RAVINDRA V. GHUGE, J.)**