

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8734 OF 2015

Poona Shikshan Sanstha,
Rahatni, Pune – 411 017.

2. The Head master,
Smt.Savitribai Rameshwar Pal
High School Rahatni, Pune. ... Petitioners

v/s

1. State of Maharashtra, Mumbai.
2. The Education Officer (Secondary)
Zilla Parishad, Pune.
3. Shri Ramu Chavan,
Residing at Wakad, Pune. ... Respondents

Mr.Ashok M. Joshi for the petitioners.

Mr.A.R.Metkari, A.G.P. for respondent Nos.1 and 2.

CORAM: N.M. JAMDAR, J.

DATED : 4 MARCH 2016

PC.:

The Petitioners challenge the order passed by the School Tribunal, Pune, dated 27 March 2015 allowing the application filed by Respondent No.3 for condonation of delay in filing the appeal.

2 Respondent No.3 filed an appeal in the School Tribunal,

Pune, along with the application for condonation of delay on 19 July 2013. It was his case that he was appointed as a peon in the Petitioners school from June 2004. His signatures were taken by the Petitioners on few blank papers. The Petitioners told Respondent No.3 not to sign the muster from 15 July 2012. However, Respondent No.3 was going to the school and doing regular work. According to him, he was allowed to do the work but on some pretext or the other, he was prevented from signing the muster, which continued till 2 January 2013 and he has asserted that from 3 January 2013 the Petitioners prohibited him from attending the school and thereafter the appeal was filed on 19 July 2013. This case has been accepted by the School Tribunal.

3 Learned counsel for the Petitioner submitted that Respondent No.3 resigned on 30 April 2009 and the resignation was accepted and therefore the delay was of four years and not of six months. In the light of this defence, the School Tribunal considered the evidence and found that, *prima facie*, the documents in respect of the resignation of Respondent No.3 did not appear to be genuine. It was held that the reason given in the resignation letter by the Respondent No.1 that his mother was unwell, is impossible for him to give this reason, as his mother has expired on 30 May 2004.

4 It is the defence of the Petitioners that the services of Respondent No.3 were terminated in the year 2009 which will be on merits of the dispute between the parties. At this stage, the School Tribunal has considered the material *prima facie* and has

taken the date of April 2013 as a starting point of limitation for Respondent No.3 which approach cannot be stated to be perverse. It however needs to be clarified that the observations made by the School Tribunal in the impugned order, are *prima facie*, and will not preclude the Petitioners from putting forth its case on merits at the time of hearing of the appeal.

5 The writ petition is accordingly rejected with the above clarification.

(*N. M. JAMDAR, J.*)