

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

WRIT PETITION NO.10520 OF 2016

Dattakala Shikshan Sanstha
through its Chairman/Secretary & Anr. ... Petitioners

vs.

Mr. Benkar Arvind Ramlakhan & Ors. ... Respondents

WITH

WRIT PETITION (STAMP) NO.21760 OF 2016

Dattakala Shikshan Sanstha
through its Chairman/Secretary & Anr. ... Petitioners

vs.

Mr. Porharkar Sandip Vijay & Ors. ... Respondents

WITH

WRIT PETITION (STAMP) NO.21762 OF 2016

Dattakala Shikshan Sanstha
through Chairman/Secretary & Anr. ... Petitioners

vs.

Mr. Chavan M. Ankush & Ors. ... Respondents

WITH

WRIT PETITION (STAMP) NO.21763 OF 2016

Dattakala Shikshan Sanstha
through its Chairman/Secretary & Anr. ... Petitioners

vs.

Mr. Jadhav Sudhir Suresh & Ors. ... Respondents

Mr. M.V. Thorat for the Petitioners.

Coram : **A.A.Sayed, J.**

Date : 23 November 2016

P.C. :

1 Writ Petition (Stamp) Nos.21760 of 2016, 21762 of 2016 and 21763 of 2016 are not on Board. By consent, the said Writ Petitions are taken on Board. Learned Counsel for the Petitioner-Management states that the facts in all four Petitions are identical.

2 Heard learned Counsel for the Petitioner-Management. By these Petitions, the Petitioner-Management has challenged the orders dated 24 June 2016 passed by the School Tribunal, Pune, whereby the Applications filed by the Respondent teachers for condonation of delay in filing Appeals have been allowed.

3 It is an admitted position that the Respondent teachers had preferred Civil Application No.1094 of 2015 on 6 April 2015 in this Court in pending Writ Petition (Stamp) No.7764 of 2015 pertaining to the regularization of their services. In the said Civil Application, the said Respondent teachers had sought stay to their termination orders. This Court by order dated 30 September 2015 refused to entertain the Civil Application in view of the alternate remedy and granted liberty to challenge the orders of termination by invoking appropriate remedy. The Respondent teachers have thereafter filed Appeals before the School Tribunal. They also filed Applications for condonation of delay in filing the Appeals wherein the impugned orders were passed which are subject-matter of the present Petitions.

4 After hearing the parties on the Applications for condonation of delay, in para 6 of the impugned orders dated 24 June 2016, the School Tribunal held as follows:

“6) Taking into consideration the facts and circumstances of the case it seems to me that most of the

time is spent by the applicant in Court Proceeding till 3/10/2015 and then on 27/10/2015 this appeal is filed along with this application. The reasons are not properly explained for alleged delay since then, however to enable the parties and to try the matter on its merits in my view the application is required to be allowed with costs. Hence Application deserves to be allowed with cost of Rs.500/- and hence I pass following order.

ORDER

1. *Application is allowed subject to payment of cost of Rs.500/- (Five Hundred) payable to the Respondent No.1.*
2. *The Applicant is directed to pay the above cost to the Respondent No.1 within two weeks.*
3. *After compliance of cost the accompanied Appeal be registered and fresh notices be issued to the all respondents.”*

5 The learned Counsel for the Petitioner Management submits that in view of sub-section (2) of section 9 of the Maharashtra Employees of Private Schools (Conditions of Services) Regulation Act, 1977 the Appeals ought to have been filed within a period of 30 days. He has relied upon the judgment of the Supreme Court in **State Bank of India vs. B.S. Agriculture Industries (I), (2009) 5 Supreme Court Cases 121**. The contention of the learned Counsel for the Petitioner Management is that the Respondent teachers have not shown sufficient cause for the School Tribunal to have condoned the delay in filing the Appeals.

6 The termination/otherwise termination is stated to be on 25 March 2015 which is communicated to the Respondent teachers on 30 March 2015. As indicated above, in the interregnum the Respondent teachers had approached this Court by filing Civil Application seeking stay to their termination orders in the Writ Petition pertaining to their regularization, which Civil Application was disposed of on 30 September 2015 by this Court and the Respondent teachers were granted liberty to invoke appropriate remedy. The Respondent teachers have accordingly thereafter filed Appeals before the School Tribunal on 29 October 2015, 27 October 2015, 27 October 2015 and - December 2015 respectively.

7 Having heard the learned Counsel for the Petitioner Management and on perusal of the record, I find that in the facts of the present Petitions no interference is warranted with the impugned orders in the exercise of writ jurisdiction of this Court. Sub-clause 3 of Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 empowers the School Tribunals to entertain the Appeals after expiry of 30 days. It is well settled that in condoning the delay in filing Appeals a liberal approach is required to be adopted and there is no straight jacket formula and each case is required to be decided on its own facts. In the judgment cited by the learned Counsel for the Petitioner Management, there was no Application for condonation of delay filed and that case is

distinguishable on facts. Having regard to the facts and circumstances of the present case, I am of the opinion that the delay was not such which ought not to have been condoned. The School Tribunal has exercised its discretion in condoning the delay and has also awarded costs to the Petitioner Management.

8 In the circumstances, all the Writ Petitions are dismissed in limine. No costs.

(A.A.Sayed, J.)