

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

WRIT PETITION NO.10576 OF 2015

Vijay Bhaurao Thokal .. Petitioner
Vs.
Shivnagar Vidya Prasarak Mandal & Ors. .. Respondents

**ALONG WITH
WRIT PETITION NO.10577 OF 2015**

Bapurao Hanumant Bandgar .. Petitioner
Vs.
Shivnagar Vidya Prasarak Mandal & Ors. .. Respondents

**ALONG WITH
WRIT PETITION NO.10676 OF 2015**

Dashrath Mariba Thombare .. Petitioner
Vs.
Shivnagar Vidya Prasarak Mandal & Ors. .. Respondents

Mr.Subhas Langote i/by Mr.Vishnu Madane for the petitioners.
Ms.Sugandh Deshmukh for the respondent no.1.
Mr.A.B.Metkari, AGP for the respondent nos.3 & 4.

CORAM : R.D. DHANUKA, J.
DATE : 2nd May 2016

P.C.

. By these three writ petitions filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 11th September 2008 passed by the School Tribunal, Pune rejecting the application for condonation of delay of 379 days in filing the appeals against the termination of the petitioners from the services with effect from 15th May 2006. Since the facts of all these writ petitions are

identical, all the three writ petitions were heard together and are being disposed of by a common order.

2. Being aggrieved by the order dated 11th September 2008 passed by the School Tribunal, Pune rejecting the application for condonation of delay of 379 days in filing the appeals, the petitioners have filed these writ petitions.

3. Learned counsel appearing for the petitioners submits that as the petitioners were working in class IV grade, they did not have any legal knowledge of filing these petitions and as a consequence, the delay was caused in filing the present proceedings. He submits that representations made by the petitioners to the Education Department were not responded to and thus in this process, there was a delay of 379 days in filing the appeals before the School Tribunal. He submits that the petitioners have good chances of succeeding on merits and thus the School Tribunal ought to have taken a reasonable and liberal approach in the matter and ought to have condoned the delay of 379 days in filing the appeals.

4. In so far as the delay in filing the three writ petitions is concerned, it is submitted by the learned counsel that immediately after passing of the impugned award by the School Tribunal, the petitioners had made a representation to the Chairman, High Court Legal Services Committee, Bombay for providing legal assistance. He submits that the said letter was addressed on 27th November 2008. He submits that since the petitioners did not receive any response from the High Court Legal Services Committee, the petitioners sent a reminder on 3rd June 2014.

He submits that in response to the said reminder, High Court Legal Services Committee called upon the petitioners to meet in the office personally or depute their representative for discussion along with all relevant documents. He submits that thereafter, the petitioners engaged the present advocate for representing them in this Court and to file writ petitions. He submits that the petitioners were under impression that once they applied for legal assistance to the High Court Legal Services Committee in the year 2008 itself, the High Court Legal Services Committee will look into the matter in providing legal assistance. He submits that the petitioners have thus sufficiently explained the delay in approaching this Court and thus this Court shall take a liberal view in the matter and remand back the matter to the School Tribunal for re-hearing the matter on merits.

5. Learned counsel appearing for the respondents, on the other hand, opposes these petitions on the ground that the delay is not satisfactorily explained. It is submitted that the gross delay is not only in filing the appeals before the School Tribunal but also in filing these writ petitions in this Court.

6. A perusal of the application filed by the petitioners before the School Tribunal inter alia praying for condonation of delay indicates that the application was filed on the ground that the petitioners had no legal knowledge and that they had written various letters to the Education Department, however, there was no response from the Education Department to the correspondence.

7. A perusal of the order passed by the School Tribunal indicates that the School Tribunal has considered all these reasons recorded by Department of the petitioners at a great length in the order passed on 11th September 2008 and has held that the petitioners had failed to show any cause at all for their failure to file the appeals within 30 days from the date of their termination. The reasons recorded in the application for condonation of delay were not found satisfactory. After recording detailed reasons, the School Tribunal refused to condone the delay of 379 days in filing the appeals.

8. The order dated 11th September 2008 passed by the School Tribunal is impugned by filing these writ petitions on 20th September 2014. A perusal of the writ petitions filed by the petitioners indicates that the delay of more than 6 years is not explained in these petitions at all.

9. In so far as the submission of the learned counsel for the petitioners that the petitioners had applied for legal assistance by addressing the letters dated 27th November 2008 and 3rd June 2014 and since there was no response to the letter dated 27th November 2008, the petitioners were under impression that the High Court Legal Services Committee would look into the request made by the petitioners and thus no action was taken by the petitioners for 6 years is concerned, I am not inclined to accept this submission of the learned counsel for the petitioners.

10. A perusal of the letter dated 3rd June 2014 addressed by the High Court Legal Services Committee indicates that the response was given by the High Court Legal Services Committee on the same day on

which the representation was made by the petitioners. I am not inclined to accept the allegation that there was no response from the High Court Legal Services Committee for a period of 6 years. Be that as it may, it was for the petitioners to pursue their representation before the High Court Legal Services Committee even if there was no response from the High Court Legal Services Committee. There is no dispute that the petitioners have engaged the present advocate who was not deputed by the High Court Legal Services Committee to represent the petitioners. The petitioners could have approached the same advocate or other advocate in the year 2008.

11. Learned counsel for the petitioners submits that if the delay is condoned by this Court, an issue of back wages can be kept open. Learned counsel for the respondents is not agreeable to this suggestion made by the learned counsel for the petitioners. I am not inclined to accept this request made by the learned counsel for the petitioners.

12. In my view, there is a gross delay not only in filing the appeals before the School Tribunal but also in approaching this Court for filing the present writ petitions. Since the delay is not satisfactorily explained and there is a gross delay, this Court cannot interfere with the order passed by the School Tribunal. In my view, even otherwise the reasons recorded by the petitioners for condonation of delay in filing the appeals were not the reasons on which the School Tribunal could have condoned the delay. Writ petitions are devoid of merits and are accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.