

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**ORDINARY ORIGINAL CIVIL JURISDICTION**  
**WRIT PETITION NO.1310 OF 2015**

Smt. Rukmani B. Shinde

.... Petitioner

Vs.

Chief Executive Officer,  
Lala Lajpatrai College & Economics  
& Ors.

.... Respondents

Mr. K.M. Sangani, Advocate for the Petitioner.  
Mr. A.P. Singh i/by M/s S.K. Srivastav & Associates for the  
Respondents.

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 28th September, 2016

P.C. :

1            This petition filed on 7<sup>th</sup> January, 2015 challenges the order dtd.5<sup>th</sup> March, 2005 passed by the School Tribunal, Mumbai dismissing the petitioner's application for condonation of delay in filling appeal under Section 9 of the Maharashtra Employees of Private School (Condition of service) Regulation Act, 1977 ("MEPS" Act for short). As per Section 9(2) of the MEPS Act, appeal against the order of termination is required to be filed within a period of 30 days from the date of receipt of the order. As stated in her application for condonation of delay, the petitioner received order of punishment for misconduct on 10<sup>th</sup> May, 2003. She filed the appeal along with the application for

condonation of delay in the month of September, 2004 with the delay of 456 days.

2           In her application for condonation of delay, all that the petitioner states is that on the one hand, she was being harassed, victimised and humiliated by the authorities in the College and on the other hand, she was denied her salary, emoluments and back-wages. She was left without any means and source of income. She was required to maintain the cost and expenses for the education of her two sons and to maintain herself and her family. Therefore, she could not file the appeal in time. The School Tribunal in the impugned order has held that there was no sufficient cause shown by the petitioner for condoning such an extensive delay. It has observed that adverse situation and problems of various nature stated would obviously be there for any employee losing his employment. That cannot be treated as sufficient cause for not preferring an appeal within the statutory period of limitation. Mr. Sangani, the learned advocate for the petitioner submits that CBI had filed complaint against her husband for the offences punishable under Section 120B read with Section 420 Indian Penal Code and Section 13(2) read with 13(1) of Prevention of Corruption Act with the appellant as the co-accused. The complaint culminated into Special Case being No.91 of 2002 filed by C.B.I. in which the petitioner and her husband have been convicted on 29<sup>th</sup> April, 2013. Presently the petitioner is on bail. The petitioner was

arrested and was in custody for some time. Therefore she could not have filed the appeal in time. This fact is not even mentioned in the application for condonation of delay. Therefore the same was not taken in consideration. The petitioner cannot be permitted to plead that before this court for the first time.

3           Mr. Sangani, then submits by taking support of the decision of the Apex Court in Collector, Land Acquisition, Anantnag and Another vs. Mst. Katiji and Others, reported in A.I.R. 1987 Supreme Court, page 1353 that while considering the application for condonation of delay, the court should adopt liberal approach, since ordinarily a litigant does not stand to benefit by lodging the appeal late. There can be no dispute with the proposition of law laid down in the decision cited. But these proposition of law are required to be applied by taking into account facts and circumstances of each case. They are not absolute principles. In the case on hand, there is no case whatsoever made out by the petitioner. Therefore, there is no infirmity in the impugned order. It may also be mentioned here that even for approach this court, there is delay of about 10 years on the part of the petitioner. The petition was filed on 7<sup>th</sup> January, 2015 and the order impugned therein is dated 5<sup>th</sup> March, 2005. This delay is neither acknowledged in the petition nor explained. In all the circumstances, the above petition is dismissed.

(Smt. R.P. SondurBaldota, J.)