

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

WRIT PETITION NO. 363 OF 2017
TAPI PARISAR VIDYA MANDAL THROUGH ITS CHAIRMAN AND OTHERS
VERSUS
SHEKHAR KAMLAKAR ZAMBRE DIED LRS KAMLAKAR VISHNU ZAMBRE
AND OTHERS

...
Advocate for Petitioners : Shri Hon Ashwin V. a/w Shri Deshmukh Ajinkya.

...
CORAM: RAVINDRA V. GHUGE, J.
DATE :- 17th January, 2017

Per Court:

1 The Petitioners are aggrieved by the order dated 02.08.2016 passed by the Presiding Officer, College and University Tribunal by which Miscellaneous Application No.3/2016 has been allowed.

2 Shri Hon, learned Advocate for the Petitioners, has strenuously criticized the impugned order. The contention is that the original Appellant Mr. Shekhar Zambre passed away during the pendency of the appeal before the Tribunal. The application for bringing his legal heirs on record and for recalling the order of abatement, should have been filed within 90 days. The delay of 249 days has been caused. The reasons cited are not satisfactory and acceptable. In the absence of proper reasons, no relief can be granted and the applications should have been rejected by the Tribunal.

3 I have considered the submissions of the learned Advocate for the Petitioners and have gone through the petition paper book.

4 There is no dispute that Appeal No.NMU-07/2010 filed by the deceased Shekhar Zambre was pending adjudication. During the pendency of the appeal, the said Appellant passed away. Apparently, after recovering from shock of losing the sole bread earner, the Respondents comprising of father and mother of the deceased, aged 75 and 70 years respectively and two brothers of the deceased have approached the Tribunal after learning of the pending appeal.

5 It is trite law that in the matters of such nature, the Court has to take a pragmatic view rather than resorting to a pedantic approach. The delay of 249 days cannot be said to be either deliberate or inordinate. In my view, the impugned order passed by the Tribunal cannot be termed as being perverse or erroneous or likely to cause gross injustice to the Petitioners.

6 In the light of the above, this Writ Petition being devoid of merit is, therefore, dismissed.