

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2777 OF 2016

Pravin Ramdas Bachhav,
Age-47 years, Occu-Nil,
R/o Dahivel, Tq.Sakri,
Dist.Dhule - 424002

-- PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary of
School and Education Department,
Mantralaya, Mumbai,
2. The Education Officer (Secondary)
Zilla Parishad, Dhule,
Dist.Dhule,
3. The Adivasi Vidya Vikas Mandal,
R/o Dhaner, Tal.Sakri, Dist.Dhule,
4. The Chairman,
R/o Adivasi Vidya Vikas Mandal,
Dhaner, Tal.Sakri, Dist.Dhule,
5. The Secretary,
R/o Adivasi Vidya Vikas Mandal,
Dhaner, Tal.Sakri, Dist.Dhule,
6. The Head Master,
Late B.G.Patil Madhyamik Vidyalaya,
Dhaner, Tal.Sakri, Dist.Dhule

-- RESPONDENTS

Mr.I.A.Chandorikar h/f Mr.P.R.Patil, Advocate for the petitioner.
Ms.S.S.Raut, AGP for respondent Nos. 1 and 2.
Mr.S.S.Deshmukh, Advocate for respondent Nos. 4 to 6.
Respondent No.3 served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 07/03/2017

PER COURT :

1. The petitioner is aggrieved by the order dated 30/06/2015 delivered by the School Tribunal, Nasik by which the Misc.Appl.No. 27/2000, seeking condonation of delay, has been rejected.

2. I have heard the petitioner, the learned AGP on behalf of the State and Mr.Deshmukh, learned Advocate on behalf of respondent Nos. 4, 5 and 6 Management.

3. Mr.Deshmukh has vehemently opposed this petition. He submits that if the delay appears to be inordinate, no leniency can be shown. Condonation of delay is permissible only when the reasons assigned are acceptable and would convince that the delay has not been deliberately caused.

4. He relies upon the judgment of the Hon'ble Apex Court in the matter of Esha Bhattacharjee Vs.Managing Committee of Raghunathpur Nafar Academy and others [2013(12) SCC 649] to support his contention that merely because condonation of delay is

to be liberally entertained, would not mean that the delay should be condoned in every matter. He, therefore, submits that unless the reasons cited are acceptable, the delay ought not to be condoned.

5. The learned AGP submits that in so far as the issue addressed to this Court is concerned, the State has nothing to say in the matter.

6. The petitioner has put forth a stand in the appeal that he has been orally terminated on 22/07/2000. He preferred an appeal on 01/08/2000. The Management has taken a stand that the petitioner was terminated on 19/12/1997. It appears from the record that by communication dated 17/01/1998, the petitioner was informed by the Head Master that though he is not signing the muster roll from 20/07/1997, he is neither terminated nor suspended. A resolution was passed by the School Committee dated 04/02/1998 whereby it was resolved to inform the petitioner that his service would be terminated. On 30/06/1999, the petitioner's signature is obtained on a notice served on all the teachers indicating the time table for the academic year 1999-2000 for 5th to 10th standard.

7. Considering the peculiar circumstances as above, even if it is assumed that the petitioner was terminated from the academic year

2000 onwards, the delay would be about 45 days from the commencement of the academic year. However, if the stand of the Management is considered, the petitioner was orally terminated on 19/12/1997. No order of termination has been issued. Resolution of the School Committee is dated 04/02/1998 by which the Committee intended to inform the petitioner that he was to be terminated. Yet no communication with regard to termination is either served on the petitioner, or placed on record. If the petitioner was not in employment on 30/06/1999, his signature for acknowledging the receipt of the academic curriculum/time table would not have been obtained. As such, though this case may appear to rest on “word against word”, the documents on record would indicate the presence of the petitioner on duty.

8. It cannot be ignored that the School Tribunal is the first Court available to the petitioner. If the doors of the Tribunal are closed on the petitioner, he would not be in a position to challenge his oral termination before any Court and he would have to rest with his oral termination without it being tested in law. He would, therefore, be rendered remediless and the legality and validity of his termination would never be subjected to judicial scrutiny. In my view, the Tribunal should have taken a pragmatic view rather than a pedantic

view.

9. Considering the above, this petition is partly allowed. The impugned order of the School Tribunal dated 30/06/2015 is quashed and set aside. The Misc.Application filed by the petitioner stands allowed on the following conditions :-

- [a] The appeal filed by the petitioner be registered.
- [b] The litigating sides would appear before the School Tribunal at Nasik on 29/03/2017 and formal notices need not be issued.
- [c] While deciding the appeal, the Tribunal would obviously locate the actual date of oral termination and in the event the said date is more than 30 days prior to the filing of the appeal, the Tribunal would deprive the petitioner of monetary benefits for that period of time, in the event the petitioner eventually succeeds.
- [d] The Tribunal shall note that the merits regarding the termination have not been dealt with in this petition and it is for the Tribunal to decide the appeal on its merits.

(RAVINDRA V. GHUGE, J.)