

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

WRIT PETITION NO. 928 OF 2018

Syed Irfan Syed Gaffar,
Age 36 years, Occupation Nil
resident of H.No. 71, Block No.5
Labour colony, Nanded.
Taluka District Nanded.

...PETITIONER

VERSUS

- 1) The President,
Arbab Education Society,
H.No.71, Block No. 5, Labour
Colony, Nanded.
- 2) The Secretary
Arbab Education Society,
H.No./105, Block No.7,
Labour Colony, Nanded.
- 3) The Head Master
Yousufiya Urdu Secondary
School Peer Burhan Nagar,
Nanded.
- 4) The Education Officer (Secondary),
Zilla Parishad Nanded.

....RESPONDENTS

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Advocate for the Petitioner : Ms. A.N.Ansari
Advocate for Respondent Nos. 1 to 4 : Shri S.R.Chaukidar
AGP for Respondent No.5 : Shri K. S. Patil

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 25th SEPTEMBER, 2018.

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ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and by the consent of the learned Advocates for the respective sides, this petition was taken up for final hearing.

2. The petitioner is aggrieved by the order dated 22/09/2017, passed by the School Tribunal, by which, M.A. No.02/2017 seeking condonation of 96 days delay caused in filing the Appeal, for challenging the order of termination dated 17/10/2016 communicated to the petitioner on 24/10/2016, has been rejected.

3. I have considered the submissions of the learned Advocate for the petitioner and the strenuous submissions on behalf of the respondent/Management.

4. The learned Advocate for the Management has supported the impugned order and has prayed that this petition deserves to be dismissed with heavy costs.

5. Though the learned Advocate for the Management has

strenuously opposed this petition, I cannot accept the submissions of the learned Advocate in view of the following sequence of events :-

- (a) The petitioner was terminated on 17/10/2016.
- (b) He was served with the order of termination on 24/10/2016.
- (c) The limitation for preferring an Appeal under Section 9 of the MEPS Act, 1977 is 30 days and as such, the petitioner should have preferred his Appeal on or before 24/11/2016.
- (d) The Appeal was preferred on 27/02/2017 with a delay of 96 days.
- (e) It is undisputed that the petitioner was in litigation against the Management before the Labour Court and the Industrial Court in relation to his suspension order and outstanding wages.

6. In so far as the condonation of delay is concerned, it is settled law that the Court has to adopt a pragmatic approach rather than taking a pedantic view. If the delay is deliberate and inordinate and if laches or oblique motives are attributed to the conduct of the applicant, the application for condonation of delay could be rejected.

7. The Honourable Apex Court has crystalized the law and

has settled the principles while dealing with the application for condonation of delay in the judgments delivered in the matters of *Collector, Land Acquisition, Anantnag V/s Mst. Katiji, AIR 1987 SC 1353* and *Esha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy and others, (2013) 12 SCC 649*.

8. I do not find that the delay of 96 days caused in this case could be termed as being deliberate or inordinate. The Tribunal should have kept in mind that refusal to condone the delay would close the doors of litigation on the petitioner and he would be precluded from challenging his purported unlawful termination before any Court in his lifetime. He would be rendered remediless. However, the School Tribunal has lost sight of these aspects.

9. Considering the above, this petition is allowed. The impugned order dated 22/09/2017, is quashed and set aside and M.A. No.02/2017 is allowed. The Appeal shall stand registered in the School Tribunal, Latur forthwith.

10. In so far as the amount of Rs. 1,000/- (Rs. One Thousand only) deposited by the petitioner in this Court is concerned, the learned Advocate for the Management graciously submits that the said amount be donated for the treatment of poor patients at Aurangabad. As such, the Registry shall transfer the said amount of Rs. 1,000/- (Rs. One Thousand only) to the Government Medical College and Hospital, Aurangabad, through **Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand draft be drawn in the name of “**Dean, Government Medical College and Hospital, Dengi Samiti, Aurangabad**”).

11. Rule is made absolute in the abovesaid terms.

(RAVINDRA V. GHUGE, J.)

shp/-