

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

**WRIT PETITION NO. 5570 OF 2018**

**SANJEVANI SAMADHAN SHEKOKAR  
VERSUS  
THE MAHARASHTRA PUBLIC SERVICE COMMISSION AND OTHERS**

Mrs.Pradnya S. Talekar, Advocate h/f Talekar and Associates for the petitioner  
Mr.Sham B. Patil, Advocate for respondent No.3  
Mr.Gajanan G. Kadam, Advoate for respondent No.5

**CORAM : S.V. GANGAPURWALA &  
S.M.GAVHANE, JJ.**

**DATED : 05.09.2018**

**P.C. :-**

. Under the impugned order, delay of about 1537 days is condoned by the Maharashtra Administrative Tribunal in an application filed by respondent No.5.

2. Learned counsel appearing for the petitioner submits that the petitioner in her say, filed to the application for condonation of delay, had specifically raised ground that the original applicant before the tribunal/ present respondent No.5 was having complete knowledge of the allegations made regarding the experience of the present petitioner way back in the year 2011.

Present respondent No.5/original applicant had made an application on 12.12.2011 to the Secretary, Medical Education and Drugs Department, thereby making a grievance about the present petitioner not possessing the necessary experience. The said fact was suppressed by respondent No.5 in the application. Though the petitioner had filed alongwith affidavit the copy of the application, the tribunal in the impugned order has not considered the same.

3. Mr. Kadam, learned counsel submits that the present respondent No.5/original applicant was not having the copy of the application, which was filed in the year 2011. Learned counsel submits that the application for condonation of delay was made on true and correct facts. Respondent No.5 is not guilty of any suppression of facts. The condonation of delay has to be liberally construed and the matter is required to be heard substantively on merits. It is after dismissal of the Original Application No.100/2012 by the tribunal on 15.12.2016, the present respondent No.5 could get knowledge that the petitioner not possessing the requisite qualification as per the advertisement

pursuant to which the petitioner is appointed.

4. We have considered the submissions canvassed by the learned counsels for the parties.

5. There cannot be any dispute with the proposition that substantial justice has to be subserved. The delay is of 1537 days i.e. almost four and half years. Reading the order of the tribunal, it transpires that the tribunal has not considered the plea raised by the present petitioner about respondent No.5 having knowledge of requisite qualification of petitioner. It is stated that the letter written by present respondent No.5/original applicant dated 12.12.2011 (Page No.114) was produced before the tribunal to demonstrate that respondent No.5 herein was having knowledge of the averments made by her in the original application.

6. As said aspect has not been considered and said aspect is relevant, it would be appropriate for the tribunal to apply its mind and consider the same. In light of above the impugned order is quashed and set aside.

7. Parties are relegated before the tribunal. It is submitted that the next date fixed by the tribunal is 15.10.2018. The parties shall appear before the tribunal on the said next date and argue upon the application for condonation of delay afresh. All the contentions of the respective parties are kept open.

8. Accordingly, the writ petition is disposed of. No costs.

**[S.M.GAVHANE, J.]**

**[S.V. GANGAPURWALA, J.]**