

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

WRIT PETITION NO. 11111 OF 2018

**CHATRAPATI SHRI SHAHU TECHNICAL INSTITUTE AND
COLLEGE AURANGABAD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioners : Shri Shantanu Deshpande h/f.

Dr.Shri R.J.Godbole

AGP for Respondent Nos.1 and 2 : Shri K. S. Patil

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 05th OCTOBER, 2018.

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PER COURT :

1. The petitioner/Management is aggrieved by the order dated 26/07/2018 passed by the School Tribunal, Aurangabad, by which, M.A. No. 4/2018 filed by respondent No.3/original Appellant, seeking condonation of delay of 400 days, has been allowed by imposing costs of Rs. 500/-.

2. The learned Advocate for the petitioner/Management has strenuously criticized the impugned order and has drawn my attention to the 6 grounds formulated in the memo of the petition.

3. It is submitted that firstly, the date 17/01/2017 cited by the Appellant as being the date of his oral termination, is false and fabricated. The Management has never terminated the Appellant. He himself stopped reporting for duties from 05/11/2015. As he himself stopped reporting, he has cooked up a story of oral termination on 17/01/2017.

4. Secondly, it is submitted that the delay of 400 days is a huge delay which cannot be lightly condoned. Unless proper explanation is put forth, the delay of a long period should not be condoned by the Court. It is further stated that 2 representations submitted by the Appellant on 22/01/2018 and 15/02/2018, are aimed at bridging the period of delay.

5. I find from the relevant record that the delay of 400 days cannot be said to be a huge or inordinate delay. Record also does not reveal that the Appellant has deliberately caused the delay or is likely to gain benefit out of them.

6. The Honourable Apex Court in the matters of ***Collector, Land Acquisition, Anantnag v/s. Katiji, AIR 1987 SC 1353*** has observed in paragraph No. 3, while setting forth certain principles for condonation of delay.

7. The Honourable Apex Court has again dealt with the matter of condonation of delay in *Esha Bhattacharjee v/s Managing Committee of Raghunathpur Nafar Academy, (2013) 12 SCC 649* and has culled out certain principles which are to be considered by the Court while dealing with condonation of delay.

8. In the instant matter, I do not find that ulterior or oblique motive or laches are attributed to the conduct of the Appellant. He has put forth a case that he was dashed by an unknown vehicle on 12/07/2016 at Aurangabad and was rushed to the Hospital in an unconscious state. He was discharged on 20/07/2016, but developed acute pain in his hand. Subsequently he underwent two surgeries, by which, rods were inserted in his left hand. He was again operated on 02/11/2016. In this physical condition, he reported for duties on 17/01/2017.

9. It is contended by the Appellant that he was assured of a decision as regards his joining duties. When he realized that

beyond assurances, the Management has not taken any decision, that he approached the Management by making a written application on 22/01/2018. I do not find from the written say filed by the Management before the School Tribunal that they have denied the receipt of the 2 letters or have replied to the Appellant.

10. It cannot be ignored that if the delay is not condoned, the Appellant would not be able to challenge his alleged oral termination in his lifetime. The source of earning would be lost and the challenge to the termination would never be subjected to judicial scrutiny.

11. Considering the above, I do not find that the impugned order could be termed as being perverse or erroneous.

12. This petition, being devoid of merit is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

shp/-