

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

43 WRIT PETITION NO. 10943 OF 2017

BABU NAGAPPA PHULARI
VERSUS
PRESIDENT, MAHATMA PHULE EDUCATION SOCIETY,
PARBHANI AND OTHERS

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Advocate for Petitioner : Mr. Ghatge Mahesh V.
Advocate for Respondent Nos. 1 and 2 : Mr. V. D. Gunale
AGP for Respondent Nos. 4 and 5 : Mr. S. N. Morampalle

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CORAM : V. K. JADHAV, J.
DATED : 12th MARCH, 2018

PER COURT:-

1. Heard finally with consent at admission stage.
2. The petitioner has filed Appeal No. 20 of 2015 before the School Tribunal at Latur as against the termination order passed on 30/04/2014 communicated to him on 22.04.2015. On 29.07.2017, the respondents have filed an application exhibit 73 pointing out therein that this is a time bound matter which has time limit up to 30.07.2017 as per the order passed by this Court and many adjournments were sought by the appellant prior to

29.07.2017 and as on 29.07.2017, again the petitioner/original appellant and his counsel are absent and accordingly prayed for dismissal of the appeal in default. The Presiding Officer of the School Tribunal has passed order on the application exhibit 73 and thereby allowed the said application and also passed order below exhibit 1 to that effect. Further, the petitioner has filed an application exhibit 75 for restoration on the same day, however, by order dated 29.07.2017, the learned Presiding Officer of the School Tribunal has also rejected the said application.

3. The learned counsel for the petitioner submits that the petitioner is a teacher by profession and he has challenged the termination order by preferring the Appeal before the School Tribunal. The learned counsel submits that as per the time limit fixed by this Court, the Appeal was to be decided prior to 30.07.2017. As per the instructions from his client, even the learned Presiding Officer was also intending to seek extension from this Court to dispose of the Appeal. The learned counsel submits that even though on the same day the application for restoration has been filed, the learned Presiding Officer of the School Tribunal has rejected the same.

4. The learned counsel for the respondent submits that the petitioner was not diligent in prosecuting the Appeal. He remained absent on many dates and as such, even the School Tribunal has imposed costs on him on 21.07.2017 and accordingly adjourned the matter finally to 29.07.2017. However, even on that date, the petitioner and his counsel remained absent and even at some later stage on the same day, sought adjournment in the matter for arguments. The learned counsel submits that this is a time bound matter as directed by this Court and therefore, the learned Presiding Officer of the School Tribunal has rightly dismissed the Appeal in default and also rejected the application exhibit 75 seeking restoration of the Appeal.

5. It appears that the School Tribunal has dismissed the Appeal in default on 29.07.2017 when the time limit was up to 30.07.2017. The learned Presiding Officer of the School Tribunal could have given the next date as 30.07.2017, however, even though on the same day the petitioner has filed the application for restoration of the Appeal, the learned Presiding Officer rejected the same. However, the petitioner is also responsible for

causing delay in the hearing of the Appeal. I understand that it is difficult for the Presiding Officer to hear the matter on 30.07.2017 and decide it on the same day. However, the petitioner, who is a teacher by profession, has challenged the termination order and as such, he should be given one more chance to argue his case before the School Tribunal. However, the petitioner is required to be saddled with costs. Hence the following order:

ORDER

- I. The Writ Petition is hereby allowed.
- II. The impugned order dated 29.07.2017 passed below exhibit 75 in Appeal no. 20 of 2015 is hereby quashed and set aside.
- III. The application exhibit 75 is allowed in terms of its prayer clause, subject to costs of Rs.5,000/- (Rupees five thousand only) to be paid within a period of two weeks from today to the respondent management.
- IV. The parties shall appear before the School Tribunal on 26.03.2018.

V. The petitioner shall seek no adjournment before the School Tribunal after the matter is restored except in case it is adjourned at the behest of the other side or on the part of the School Tribunal itself.

VI. The Writ Petition is accordingly disposed of.

(V. K. JADHAV, J.)

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