

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12082 OF 2017

Satish V. Ratnaparkhi

.. Petitioner

Vs.

University of Mumbai

.. Respondent

Ms. Seema K. Chopda a/w Ishwari S. for the petitioner.

Mr. Asadullah Shaikh i/b. Rui Rodrigues for the respondent.

CORAM : A.K. MENON, J.

DATED : 11TH APRIL, 2018

P.C. :

1. By this writ petition, the petitioner challenges an order dated 24th August, 2017 passed by the Mumbai University and College Tribunal rejecting the Misc. Application no.10 of 2017 by which the petitioner sought condonation of delay.
2. The petitioner filed the Misc. Application no.10 of 2017 before the Tribunal pursuant to an order dated 6th July, 2017 passed in Writ Petition no.9844 of 2016 along with Writ Petition no.12208 of 2016. By the said order, the Division Bench of this Court found that the petitioner had an efficacious remedy under Section 59 of the Maharashtra Universities Act, 1994 or under Section 85 of the Maharashtra Public Universities Act, 2016, and the petition was rejected to enable the petitioner to avail an alternate remedy for

prosecuting the petition was also to be considered while granting benefit under Section 14 of the Limitation Act.

3. In the circumstances, the Tribunal was requested to decide the appeal of the petitioner as expeditiously as possible. However, upon filing of the application of the petitioner, it was found that even after considering the benefit under Section 14 of the Limitation Act, the petitioner had approached the High Court by filing Writ Petition no.9844 of 2016 after the delay of 540 days. The case of the petitioner was that there were several representations made by him to the respondent University pursuant to the impugned action of the respondents taking away charge of the petitioner as Director of Alkesh Dinesh Modi Institute for Financial and Management Studies. In that respect, it is submitted that there was no specific order but merely a letter taking away the charge while continuing to ask the petitioner to work as Supervisor cum Professor.
4. The petitioner then handed over charge of the post of Directorship to the next incumbent as required by the University, however, being aggrieved by the said action and had initiated correspondence to ascertain the reason therefor. The impugned order records that the numerous letters were addressed by the petitioner to the Vice Chancellor commencing from 24th November, 2014 onwards and upto 15th February, 2016 but there was no effective response and therefore

he had approached the High Court. No doubt, the delay is substantial but in the facts of the case it is not that the petitioner has been negligent or that he has sought to approach the Tribunal as an after thought. The fact that the petitioner continued to work as Professor is one of the factors that requires to be taken into consideration. He was not deprived of employment with the University. The change of guard at the institution is what forms subject matter of the challenge in that sense although in the usual course correspondence will not entitle the party to claim exemption from the laws of limitation considering the fact that he was still employed with the University, I am of the view that an opportunity should be given to him. In the circumstances, I pass the following order:-

- (i) Subject to payment of costs of Rs.5000/- to the respondent, within a period of three weeks from today, the delay in approaching the Tribunal is condoned.
- (ii) Rule is made absolute on the above terms.
- (iii) This order being passed in the circumstances of the case where the Petitioner is still working with the University, and it shall not be treated as a precedent hereafter .

(A.K. MENON,J.)