

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

**55 CIVIL APPLICATION NO.9846 OF 2017
IN RAST/22337/2017 IN WP/4700/1998**

WITH

**CA/9847/2017 IN RAST/22341/2017 IN WP/4696/1998
WITH CA/9848/2017 IN RAST/22307/2017 IN WP/4693/1998
WITH CA/9849/2017 IN RAST/22331/2017 IN WP/4694/1998
WITH CA/9850/2017 IN RAST/22323/2017 IN WP/4695/1998
WITH CA/9851/2017 IN RAST/22319/2017 IN WP/4702/1998
WITH CA/9852/2017 IN RAST/22333/2017 IN WP/4705/1998
WITH CA/9853/2017 IN RAST/22317/2017 IN WP/4703/1998
WITH CA/9854/2017 IN RAST/22327/2017 IN WP/2235/1999
WITH CA/9855/2017 IN RAST/22325/2017 IN WP/4698/1998**

**MAULANA AZAD EDUCATION TRUST,AURANGABAD
THROUGH ITS PRESIDENT AND ANOTHER .. Applicants
VERSUS
BHAGWAN GOVINDRAO KHALSE
AND OTHERS .. Respondents**

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Advocate for Applicants : Shri Amol N. Kakade
Advocate for Respondent No.1 : Shri Kshitij Surve
AGP for Respondent No.2 : Shri K.S. Patil
Advocate for Respondent No.3 : Shri V.D. Patunkar
Respondent No.4 : Served.

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CORAM : PR. BORA, J.
Dated: March 25, 2019

PER COURT :-

1. Heard Shri Kakade, learned Counsel appearing for the review petitioners. The common order passed by this Court on 27.04.2017 in Writ Petition No.4693 of 1998 with the connected writ petitions is sought to be reviewed and since

some delay has occasioned in filing the review applications, the separate application for condonation of delay has also been filed. According to the petitioner, delay of 38 days has occurred in preferring the review application.

2. The delay has been sufficiently explained. The same, therefore, is condoned. Civil Applications for condonation of delay stand disposed of.

3. Review applications be registered in accordance with law.

4. After the delay has been condoned, the review applications are immediately heard thereafter.

5. It is the contention of Shri Kakade, learned Counsel appearing for the petitioner that, the Selection Committee has selected only 2 out of 10 writ petitioners and in the circumstances, the order passed by this Court on 27.04.2017 needs to be reviewed in view of the order passed in the said writ petitions by this Court on 05.11.1998.

6. I deem it appropriate to reproduce herein below the order passed by this Court in aforesaid writ petitions on
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05.11.1998, which was also reproduced in the order passed by this Court, which is sought to be reviewed. It reads thus :

“Heard.

Rule. Expedited.

Petitioners are permitted to initiate recruitment process and selection process for the posts of Class III and IV and prepare a Select List of the selected candidates but the petitioners shall not issue appointment orders without the approval of this court. The petitioners shall not discontinue the services of the respondents – employees concerned herein during the pendency of this petition.

It will be open for the respondent employees to apply for the posts advertised by the petitioners and get themselves selected on merits. The petitioners shall give due weightage to their experience while in service of the petitioners.

Respondents employees waive service.”

7. The learned Counsel pointed out that, in the process of selection conducted by the Selection Committee, only 2 persons out of 10 who were the petitioners in the aforesaid writ petitions were recommended for their appointments. The learned Counsel submitted that, in such circumstances, even as per the order passed by this Court on 05.11.1998 only the said two persons who were duly selected were to be continued and the others were not having any right to continue in the services.

The learned Counsel submitted that, when the matter was decided by this court on 27.04.2017 since nobody was present from the present petitioners, the aforesaid factual information could not be brought to the notice of the Court, which has resulted in passing the impugned order. The learned Counsel, in the circumstances, has prayed for condoning the delay and to hear the review applications on merits.

8. On a query made by the Court to the learned Counsel appearing for the petitioner as to what happened to the services of the remaining 8 petitioners excluding 2, who were recommended on merits by the Selection Committee, the learned Counsel informed that, all of them are still in service and they are being regularly paid. On a further query made by this Court, whether after the Selection Committee recommended the names of only 2 out of 10, the said information was brought to the notice of this Court in the pending writ petitions or whether any civil application was moved for modification in the order passed by this Court on 05.11.1998, the learned Counsel submitted that, no such attempt was made.

9. In the order passed by this Court on 27.04.2017, it has been observed that, for years together the writ petitions were unattended leading to an inference that, the petitioner has lost interest in prosecuting the said petitions further. Now it is revealed that, though in the year 1998 itself, 8 out of 10 employees were not recommended by the Selection Committee, no attempt was made by the petitioner to seek any further order in respect of the said employees. The action, which could have been taken by the petitioner in the year 1998, was not taken and the said 8 employees have been continued in the employment for about 20 years thereafter. As noted herein above, the said employees are being paid their wages in the regular pay scale. Nothing is brought on record to suggest that, the work of the said employees was not satisfactory. Considering the facts as aforesaid, it does not appear to me that, any case is made out by the petitioner to review the order passed by this Court on 27.04.2017. The review applications being devoid of any merits deserve to be dismissed and are accordingly dismissed.

(P.R. BORA, J.)