

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6147 OF 2019

RASHTRIYA VIKAS SEVA BHAVI SANSTHA, ISLAMPUR
THROUGH ITS SECRETARY AND ANOTHER
VERSUS
KISHOR CHANDRAKANT JAWADE AND ANOTHER

...
Dr. Supriya L. Pansambal, Advocate h/f. Mr. V.G. Gunale,
Advocate for petitioners
Mr. G.O. Wattamwar, AGP for respondent no. 2
...

CORAM : SUNIL P. DESHMUKH, J.
DATE : 11-12-2019

ORDER :

1. Heard learned counsel for petitioners, who vehemently submits that the pretext under which delay has been explained, would not be a plausible reason and much less sufficient cause as contemplated under section 5 of the Limitation Act.

2. The position as appearing in paragraphs no. 9 and 10 of impugned order dated 04-08-2018 passed by learned Presiding Officer, school tribunal, Latur in miscellaneous application no. 27 of 2016 shows, thus,

“ 9. Upon perusal of record it is seen that Advocate of respondent No. 2 and 3 has produced on record muster roll for October 2013 at Exh. 22/1 and muster roll from June 2015 to April 2017 at Exh.22/2. Upon perusal of the muster roll for the month of June 2015, July 2015 and August 2015 it is seen

that the name of the applicant appears at Sr. No. 9. If the applicant was not working in the respondent school his name should not have been on the muster roll. The fact that the muster roll shows the name of the applicant strengthens the story of the applicant.

10. Upon perusal of the record it is seen that the applicant has produced the appointment order dated 10/06/2009 at Exh. 4/3 and notice dated 22/09/2016 at Exh. 4/4. Upon perusal of the notice at Exh. 4/4 it is clear that the applicant had requested for reinstatement to the Secretary. Once the notice was issued to the Secretary by the applicant it is found very probable that he would have waited for some time for reply to the said notice. The delay of 44 days is not a huge delay and it is not found to be intentional or malafide. Therefore, to meet the ends of justice said delay can be condoned by imposing cost on the applicant. Accordingly, it is held that the applicant has proved that he had sufficient cause to condone the delay of 44 days. Point No. 1 is answered in the affirmative.”

3. Presiding Officer of the school tribunal, Latur has considered in her discretion that the delay is reasonably explained and that delay of 44 days is not a huge delay and in order to meet the ends of justice, the same should be condoned.

4. In view of aforesaid position coupled with the decisions of Apex Court in the cases of *Collector, Land Acquisition, Anantnag V/s. Mst. Katiji and others* reported in AIR 1987 SC 1353 and *Esha Bhattacharjee V/s. Managing Committee of Raghunathpur Nafar Academy and others* reported in (2013) 12 Supreme Court Cases 649, it does not appear to be a case where meddlesome approach is required in discretionary powers of this court.

5. Writ petition is therefore not being entertained and is rejected.

[SUNIL P. DESHMUKH]
JUDGE

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