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

WRIT PETITION NO.4438 OF 2018

Dhondappa K. Sakhare

.. Petitioner

Vs.

Trimurti Vidya Vikas Mandal

Mangalvedha & Ors.

.. Respondents

Mr. Shikur G. Kudle for the petitioner.

Mr. A.M. Joshi for respondent nos.1 and 2.

Mrs. Vaishali Nimbalkar, AGP, for the respondent no.3.

Mr. Ajinkya M. Udane for respondent no.4.

CORAM : A.K. MENON, J.

DATED : 14TH FEBRUARY, 2019.

P.C. :

1. The challenge in the petition is to an order dated 13th December, 2017 passed on Exhibit 1 in Misc. Application no.10 of 2016 by which the petition sought condonation of delay.

2. The brief facts are as under;

The challenge in the appeal proposed to be filed was to an order dated 29th February, 2006 whereby the respondent nos.1 and 2 terminated the services of the petitioner. In writ petition no.8365 of 2007 filed in this Court, vide order dated 19th March, 2012, the applicant was given liberty to adjudicate all issues. However, it appears that the petitioner

had filed appeal bearing no.27 of 2009 before the School Tribunal which came to be dismissed on 9th April, 2013. In that proceeding, the 4th respondent herein was apparently not a party and it was contended that in view of the 4th respondent not having been made a party, the order dated 9th April, 2013 could not operate as res judicata. In any event, knowledge of the order is admitted inasmuch as on 19th March, 2012 itself this Court had granted liberty to raise all relevant issues despite which no appeal was filed till April 2016.

3. The petition has been opposed on behalf of the respondents. An affidavit in reply of the 4th respondent has been filed which relies upon the judgment of the tribunal dated 9th April, 2013. Copy of the order passed by this Court is annexed at Exhibit A-6 to the petition. The order records the contentions raised by the petitioner, refers to an earlier petition being Writ petition no.6565 of 2010 which came to be dismissed by this Court on 6th December, 2000 and reserves the right of the petitioner to raise all issues in an appeal that he may file. With those observations the writ petition was disposed.
4. An averment has been made in paragraph 7 of the appeal making specific reference to the order of this Court dated 19th March, 2012, despite which the application for condonation of delay is urged on the basis that the petitioner had no knowledge of the order impugned till filing of the appeal. The impugned order has considered these very

contentions and has come to the conclusion that no cause is made out for condoning the delay which is of about 10 years. In the circumstances, I find no perversity with the impugned order which does not call for interference. In the result, I pass the following order;

- (i) Petition is dismissed.
- (ii) No orders as to costs.

(A.K.MENON,J.)

wadhwa