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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 633 OF 2016

Shri Sudhir Rangnath Rathod-Patil

.. Petitioner

Versus

Vidya Vikas Mandal & Ors.

.. Respondents

Mr. Suhas Inamdar for petitioner.

Mr. I. M. Khairdi for respondent Nos.5 and 6.

Mr. M. M. Pabale, AGP for respondent No. 7.

CORAM: PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.

JULY 19, 2019.

P.C.

1. The Petitioner is aggrieved by the order dated 26.10.2015 passed by the School Tribunal, Solapur declining the delay in filing the appeal challenging the order terminating Petitioner's service on 15.06.2013.

2. The Petitioner was an employee of the Respondent

No.6 and his service was terminated on 15.06.2013. On said date, service of four other employees was also terminated by the Respondent No.6.

3. Notwithstanding a statutory remedy available to the five employees to file an appeal before the School Tribunal, they preferred to file Civil Suits and as regard the Petitioner, he filed R.C.S. No. 83 of 2013 challenging the termination.

4. In all the five Suits, the Respondent No.6 raised a preliminary objection to the maintainability of the Suit. In spite of being informed that the remedy was before the School Tribunal, Petitioner and his four colleagues persisted with their respective Suits but ultimately withdrew the Suits in October 2014.

5. Rather than to approach the School Tribunal, they filed Writ Petitions which came to be dismissed on 25.02.2015 holding that the remedy was to approach the School Tribunal.

6. Under the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, the appeal had to be filed under Section 9 of the said Act within 30 days from the date of termination of service.

7. The Petitioner and his four colleagues, after suffering dismissal of the Writ Petition filed by them as not maintainable on 25.02.2015, filed appeals before the School Tribunal on 13.04.2015. Refusing to condone the delay in filing the appeals, on 26.10.2015 the School Tribunal dismissed the appeals.

8. The four colleagues of the Petitioner filed Writ Petition Nos. 4270/16, 4271/16, 4272/16 and 4173/16. The Petitioner filed instant Writ Petition No. 633 of 2016.

9. The dates and the facts being identical, the four Writ Petitions filed by the four colleagues of the Petitioner were dismissed by an order dated 20.09.2016 holding that the petitioners were informed by the Management in the year 2013 by filing Written Statements in the Suits that the remedy was to file an appeal before the School Tribunal. In spite of being so informed, the petitioners litigated for some time and ultimately withdrew the Suits but rather than filing appeals chose to file a common Writ Petition No. 3087 of 2014 in this court and after more than two months of the dismissal of the said Writ Petition, filed the appeals. The Court held that the Tribunal was justified in not condoning the delay in filing the appeals.

10. Incorporating the reasoning in the order dated 20.09.2016 dismissing the four Writ Petitions filed by the colleagues of the Petitioner, we dismiss the instant petition.

N. M. JAMDAR, J.

CHIEF JUSTICE