

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

WRIT PETITION NO.973 OF 2018

Rajakka Vasant Sonavane .. Petitioner.

Vs.

Shahu Shikshan Sanstha & Ors. .. Respondents.

Mr.A.M. Kulkarni with Ms.Akansha Helaskar for the Petitioner.

Mr.Prashant P. Kulkarni i/b Mr.Abhijeet Desai for the Respondent Nos.1 to 5.

Mr.K.S.Thorat AGP for the Respondent Nos.7 and 8.

CORAM : A.K. MENON, J.

DATED : 12TH FEBRUARY, 2019

P.C. :

1. By this writ petition, the petitioner seeks to challenge an order dated 28th November, 2017 passed by the Mumbai University and College Tribunal declining to condone delay in filing of Appeal against an order of termination dated 14th July, 2016 by the letter of same date. The petitioner has apparently filed Appeal only on 6th July, 2017 i.e. about a year after the date of the letter of termination. Taking into consideration time period of 30 days for filing the Appeal, there is admittedly a delay of 10 months and 22 days.

2. Mr.Kulkarni, learned counsel for the petitioner submitted that the impugned order does not take into consideration the factual aspects which

were canvassed before the Tribunal in support of the application for condonation of delay viz. that the petitioner is a poor person and was unaware of legal procedures, that she could not find an Advocate who was conversant with the procedures and that she had written letter dated 26th August, 2016 to the management and had addressed correspondence regularly till filing of the appeal. Mr.Kulkarni submitted that the delay has been explained and that explanation should have been taken as satisfactory by the Tribunal, however, the impugned order holds otherwise, inter alia observing that there is no explanation for inordinate delay and there is no cause shown to establish that the delay was not willful, deliberate and intentional or one that could be condoned.

3. The petition is opposed on behalf of the respondent. Respondent No.5 – Mr.Deepak Damodkar Kolekar, Incharge Principal of the respondent no.1 Institute has filed an affidavit which sets out the fact that there have been criminal proceedings adopted against the petitioner who had misappropriated funds and that she was not qualified for the post resulting in the order of termination. It is contended that the delay is not explained and apart from writing letters dated 26th August, 2016 and 22nd December, 2016, no steps to avail of a remedy were taken by the petitioner.

4. I have heard learned counsel for the parties and although the learned counsel for respondent no.5 has sought to canvass and highlight the acts of misconduct alleged by the respondent no.1 institute against the

petitioner, we are not concerned with that aspect in this challenge since the impugned order is only one that declines to condone the delay and does not address the merits of matter. I have with the assistance of both learned counsel perused the impugned order and also the application for condonation of delay in filing the appeal. The application is dated 6th July, 2017. It admits delay of 10 months and 22 days. The application for condonation of delay sets out reasons in paragraph 4. In paragraph 4.4, it is contended that the petitioner has never been in touch with the legal procedures and provisions relating to termination of teachers. The petitioner was unaware of the procedure to be adopted or proper forum for filing of the appeal. She has contended that she was unable to find a lawyer who was aware of the procedure of filing the appeal before the College Tribunal and it is only in the month of June 2017 that she came to know the procedure.

5. Thus admittedly from July 2016 till June 2017 the petitioner was unaware of the procedure. No explanation is forthcoming as to what steps were taken to ascertain the procedure to challenge the order of termination. The petitioner has in paragraph 4.5 relied upon a request made on 22nd December, 2016 to reinstate her in the post of Principal but in response she received a letter dated 27th January, 2017 which made several allegations against the petitioner including that of misappropriation of money. Thus, it is seen that from July 2016 till December 2016 no attempts were even made to seek reinstatement. The first attempt in approaching the respondent

was made five months after the order was passed. The petitioner has assailed the contents of respondent's letter dated 27th January, 2017. She has further contended in the application that she met the President of the Sanstha and other authorised officers of Sanstha in the first week of June 2017 but they kept delaying the matter. It is on this basis that she has approached the College Tribunal for condonation of delay.

6. The impugned order considers all these aspects and the Tribunal has come to a finding that no case is made out for condonation of delay. I am satisfied with the fact that the impugned order has considered all aspects. The reasons set out in the application did not make out sufficient cause. The petitioner is an educated person holding Master of Arts and M.Ed degree. It is not possible to accept the explanation that from July 2016 till June 2017, she was unable to ascertain procedure to file an appeal before the College Tribunal. In my view the order is neither illegal nor perverse. No interference is called for. Accordingly, I pass the following order :

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

(A.K. MENON,J.)