

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

WRIT PETITION NO.4944 of 2019

The President/Secretary, Umadevi Education
Trust and Anr.

... Petitioners

Versus

Manoj Lalchand Yadav and Ors.

... Respondents

.....

Mr. N.R. Bubna for the petitioners.

Ms. Shruti Tulpule for respondent No.1.

Mr. K.S. Thorat, A.G.P. for respondent Nos.2 and 3.

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CORAM : M. S. KARNIK, J.

DATE : 25th APRIL, 2019.

P. C.:

1. **Rule.** Rule made returnable forthwith by consent of the
contesting parties.

2. Heard learned counsel for the parties.

3. The challenge in this Petition is to an order passed by the
School Tribunal condoning the delay of 64 days in filing the
Appeal. The respondent No.1 was appointed as a part time
teacher sometime in June 2011. According to the petitioners,
respondent No.1 was terminated in April 2014 because the post
of the part time teacher had been abolished as a result of the

staffing pattern which was introduced. Learned counsel for the petitioners would submit that the School Tribunal has wrongly proceeded on the footing that respondents continued to work upto 2017. He would submit that the Education Officer did not contest the matter before the School Tribunal placing the correct facts. He would further submit that the Tribunal while condoning the delay drew adverse inference as a result of non appearance of the Education Officer which adversely affected the case of the petitioners. This according to him will influence even when the Appeal is finally decided.

4. Learned counsel for the respondent No.1 on the other hand supported the order passed by the Tribunal. She submitted that the respondent No.1 was actually in service upto 2017. She invites my attention to the finding of the Tribunal where it is recorded that in the documents filed alongwith Appeal, the petitioner had called upon the respondent No.1 to sign the muster roll in the office of the Head Master even in the year 2017. In these circumstances, in view of the findings recorded by the Tribunal that there is no inordinate delay in filing the Appeal and that liberal approach has to be adopted while considering the application for condonation of delay, I do not find any merit in the

Petition in its challenge to the order of Tribunal condoning the delay of 64 days in filing the Appeal. The Writ Petition is therefore, dismissed.

5. It is obvious that the Appeal would be decided on its own merits without being influenced by any observations made in this order or in the order passed by the Tribunal while condoning the delay. Rule is discharged with no order as to costs.

(**M. S. KARNIK, J.**)