

M.R.Tandle

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10561 OF 2017

Sachin Uttam Kadam

... Petitioner

Vs.

Ambegaon Taluka Vidya Vikas Mandal
& othes

... Respondents

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Mr. V. V. Salunke, Advocate for Petitioner

Mrs. V. S. Nimbalkar, AGP for Respondent No.3

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CORAM : M. S. KARNIK, J.

DATE : 27TH MARCH, 2019

P. C. :

1. Heard learned counsel for the petitioner.
2. This Court on 9th October 2017 passed the following order :-

“1. Place the above Writ Petition for admission on 6th November, 2017.”

2. The Advocate for the Petitioner shall serve a copy of the above Writ Petition alongwith a copy of this order on the Respondent Nos. 1 and 2 by Speed Post/Registered Post A.D. and/or by hand-delivery.

3. The Respondent Nos.1 and 2 are put to notice that if they fail to appear before this Court on the adjourned date, the Court shall proceed to hear the Advocate for the Petitioner and pass appropriate orders.”

3. Pursuant to the order passed by this Court, learned counsel for the petitioner submits that he has duly served the

respondents and informed them about this order.

4. Learned AGP appears for respondent no.3. The petitioner informed the respondent nos.1 and 2 about this order and has also served the respondent nos. 1 and 2 by speed post. The acknowledgements are placed on record along with affidavit of service dated 6th November 2017. By the impugned order the School Tribunal dismissed the application filed by the petitioner for condonation of delay of two years and one month in filing the appeal before the School Tribunal, Pune.

5. Learned counsel for the petitioner would submit that, the petitioner was appointed as a 'Shikshan Sevak' on 14.06.2006 and thereafter as a permanent teacher with effect from 14.06.2009, and thus discharging the duty as a teacher with effect from 14.06.2006 to 10.06.2012. The petitioner alleged that his services came to be terminated by the management letter dated 17.08.2015 w.e.f. 31.08.2013.

6. Learned counsel for the petitioner would submit that, the petitioner was not feeling well and as he was out of station, therefore did not report for work. Though enquiry was conducted, the enquiry proceeded exparte. The charge in the enquiry was that

the petitioner remained absent without leave. Some additional charges are also levelled against the petitioner.

7. Challenging the order of termination, the petitioner alleged that he received knowledge about termination only after receipt of the letter dated 17.08.2015 of the Management. In the application for condonation of delay, various grounds are raised as to why he could not file the appeal within time. The said application was contested by the respondent nos.1 and 2. The School Tribunal by the impugned order did not accept the explanation offered by the petitioner. According to the School Tribunal, the delay is not explained satisfactorily. It found the explanation to be not bonafide.

8. Despite service of notice, respondents have not appeared. Having regard to the averments in the application for condonation of delay and the the grounds of challenge in the petition, in my opinion, the Tribunal was not justified in rejecting the application for condonation of delay. There is no contest by the respondent nos. 1 and 2.

9. In this view of the matter, the order passed by the School Tribunal is quashed and set aside.

10. The application of Condonation of Delay in filing the appeal before the Tribunal is allowed. Delay condoned. The School Tribunal to hear and decide the appeal on its own merits.

11. The Petition is accordingly allowed and disposed off.

(M. S. KARNIK, J.)