

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.3850/2019

Vidarbha Mahila Welfare Society, Buldhana and others

..Vs..

Education Officer (Primary), Zilla Parishad, Buldhana and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. D.V. Sapkal, Advocate for the petitioners.

CORAM : Z.A. HAQ, J.

DATED : 6.6.2019.

Heard.

By the impugned order, School Tribunal has condoned delay of about 240 days in filing appeal.

The case of the petitioner / management is that the employee abandoned his service since 11th June, 2012 and the appeal is filed in June, 2018 and the inordinate delay is not explained. The Tribunal has found that the documents produced on record by the respondent No.2 / employee *prima facie* show that the employee continued to work till September, 2017. The Tribunal has further found that after September 2017, as the employee was not permitted to perform his duties, the employee made representations to the Collector and the Education Officer, and as the grievance of the employee was not redressed, he filed appeal before the Tribunal.

Learned Advocate for the petitioners, relying on the judgments given in the case of (i) *Executive*

President, Pune Vidyarthi Griha, Pune and others V/s. Bhaskar Bhagwant Yadav and others reported in **2001(2) Mh.L.J. 226**, (ii) *Mathuradas Mohta College of Science, Nagpur V/s. R.T. Borkar and others* reported in **1997(2) Mh.L.J. 168** and (iii) *the Secretary and Anr. V/s. Shri Chintamani Birjaprasad Dubey and Ors.* reported in **2000(2) Mh.L.J.267** has argued that the explanation given by the employee should be just and proper and the valuable right of the petitioners cannot be taken away only on some lame excuse given by the employee. The position of law enunciated in the above judgments is well settled, however, in the facts of the case, I find that the Tribunal has undertaken the exercise of examining whether the explanation given by the employee for the delay can be accepted or not, and has recorded that the material produced on record by the employee substantiates the explanation given by the employee for the delay. As I find that Tribunal has rightly exercised its discretion relying on the material produced on record, I am not inclined to interfere with the impugned order, in the extra-ordinary jurisdiction. Writ petition is **dismissed**. No costs.

JUDGE