

Bhogale

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

WRIT PETITION NO.217 OF 2020

Sachin Jagannath Jagdale .. Petitioner
vs.

The President,
Shishu Shikshan Sanstha, Karad & ors. .. Respondents

Mr. Avinash R. Belge for the Petitioner.

Mr. Gautam Kanchanpurkar for Respondent No.1.

Mr. S.D. Rayrikar, AGP for the State.

CORAM : M.S.KARNIK, J.

DATE : MARCH 8, 2021

P.C.:-

Heard learned counsel for the parties.

2. The order impugned in this Petition is the one passed by the School Tribunal, Kolhapur Region, Kolhapur dismissing the Application for condonation of delay in filing the Appeal. The Petitioner claims to be working as a Peon w.e.f. 01.06.2004 with the Respondent-Institution. The Petitioner's claim is that he is otherwise terminated some time in April 2014. Almost after a delay of 3 years and 6 months the Petitioner approached the School Tribunal. As there was a delay, an application for

condonation of delay came to be filed. The Respondent No.1 filed a detailed reply contending that no sufficient cause is shown to explain the delay. The School Tribunal rejected the Application holding that the delay of 3 years and 6 months is inordinate.

3. I have heard learned counsel for the parties. After the Petitioner claimed to have been otherwise terminated, he made representation to the Education Officer on 10.07.2014. Thereafter on 08.10.2014 an application was made by the Petitioner under the Right to Information Act to the School for necessary information regarding his service book and other documents. A reference to the said application dated 08.10.2014 can be found in the application dated 03.03.2016 addressed to the Education Officer (Satara). Thereafter as the Petitioner did not get any information, the Appeal was also filed which Appeal came to be disposed of by the Appellate Authority on 06.04.2017.

4. The School Tribunal was of the opinion that merely because the Petitioner kept on contacting Respondents Society and Government officials that to for more than 3 years cannot be sufficient ground for condoning the delay. The School Tribunal also considered that even the evaluation proposal for the year

2011-12 which the Petitioner requested the Respondent-School to provide, was made available to him on 24.02.2016. In the opinion of the School Tribunal even thereafter there is a delay of 1 year and 9 months after obtaining those documents. For all these reasons the School Tribunal rejected the Application.

5. Learned counsel for the Respondent No.1 argued in support of the impugned order. He submitted that absolutely no explanation has been provided for the delay. In fact according to him it is only after the School started getting grant-in-aid w.e.f. September 2017, that the Petitioner had filed the Appeal in December 2017.

6. In my opinion, the delay deserves to be condoned. The documents on record disclosed that after the alleged oral termination the Petitioner made an application under the Right to Information Act for necessary information. Even as reflected from the order of the School Tribunal it can be seen that the evaluation proposal for the year 2011-12 which the Petitioner requested the School to provide was made available to him on 24.02.2016. This was necessary as he had no document to show that he was a permanent employee of the Respondent-School.

7. The School Tribunal, in my opinion, ought to have condoned the delay in view of the explanation and the materials on record. The Petitioner was working as a Peon almost for a period of 10 years till he was otherwise terminated in April 2014.

8. I had asked learned counsel for the Petitioner if the Petitioner is willing to forgo the backwages for the period of delay of 3 years and 6 months till the filing of the Appeal. The Petitioner is present in the Court. He has instructed his counsel that he is willing to forgo the backwages for this period. In this view of the matter, considering the explanation for delay, the delay deserves to be condoned.

9. The order of the School Tribunal is set aside. The application for condonation of delay in filing the Appeal is allowed. The Petitioner will not be entitled for any backwages from the date of otherwise termination till the date of filing of the Appeal. The Appeal to be heard on its own merits and in accordance with law by the School Tribunal.

10. The Writ Petition is disposed of as allowed.

(M.S.KARNIK, J.)