

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

CIVIL APPLICATION NO.1665/2018 IN
MISC. C. A. ST. NO.8553/2018 (FOR RESTORATION)
IN WRIT PETITION NO.1135/2009 (D)

Ku. Varsha Rupraoji Tikhile vs. Bhausahab Sabne Shikshan Prasarak Mandal,
Khamgaon and Ors.

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

Court's or Judge's orders.

Ms Ragini G. Zarbade with Mr. S. D. Chande, Advocates for
applicant.

CORAM : V.M. DESHPANDE, J.
DATED : MARCH 3, 2021

Applicant is petitioner. She filed writ petition before this Court challenging order passed by learned Presiding Officer, School Tribunal, Amravati in Appeal No. 50/2008. The writ petition was admitted for final hearing. However, since counsel for the applicant was found to be absent on 04.04.2017, 05.04.2017 and 06.04.2017, on 06.04.2017, the writ petition was dismissed in default by this Court.

The applicant, therefore, filed an application for restoration of the writ petition by recalling the order passed by this Court on 06.04.2017. There is a delay in moving the said application and, therefore, the application for condonation of delay is also filed. Notices on this application were issued on 12.09.2018. Office note shows that all the non applicants are served. Non applicant no.3 is represented by Mr.Dharmadhikari, learned A.G.P. In spite of service, none of the non applicants has filed reply opposing the application for condonation of delay and for restoration.

Both these applications are filed on affidavit of Mr.Santosh Chande, Advocate, who used to represent the applicant. He stated on oath that due to his mistake, the writ petition was not marked in the cause list and, therefore, it remained unattended.

Since the averments made in affidavit by Mr.Chande, Advocate remained uncontroverted and it was his mistake not to mark the matter, in my view, the litigant need not be penalized.

Mr.Chande, learned counsel for applicant volunteers that he shall pay costs of Rs.1,000/- to the High Court Legal Services Sub Committee, Nagpur within a period of one week from today.

In that view of the matter, I pass following order.

ORDER

(i) Civil Application No. 1665/2018 is allowed. Delay in preferring Miscellaneous Civil Application for restoration of the writ petition is condoned.

(ii) Misc. Civil Application No.8553/2018 is hereby allowed. Order dated 06.04.2017 is recalled. Writ Petition No. 1135/2009 is restored to file.

(iii) Mr. Chande, learned counsel for applicant to deposit Rs.1,000/- as costs with High Court Legal Services Sub Committee, Nagpur within one week from today.

JUDGE