

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.9600 OF 2021

**ANIL MOHANRAO TOMPE
VERSUS
THE PRINCIPAL SMT. SUSHILADEVI DESHMUKH MAHILA ADHYAPAK
VIDYALAYA AND OTHERS**

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Advocate for the Petitioner : Shri Mohekar Ganesh V.
Advocate for Respondents 1 and 2 : Shri A.V. Hon
AGP for Respondents 3 and 4 : Shri P.G. Borade
Advocate for Respondent 5 : Shri N.S. Tekale

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CORAM: SMT. BHARATI H. DANGRE, J.

DATE :- 07th January, 2022

Per Court:

1. It being settled position of law that the law does not come to the rescue of those, who choose to be in deep slumber and does not awake to exercise and avail the rights and remedies available to them.
2. The present Writ Petition is filed by the petitioner, who is aggrieved by the order passed by the Presiding Officer, School Tribunal on 08.07.2021 in Miscellaneous Application No.19/2018 filed by the petitioner seeking condonation of delay in instituting the appeal, assailing his termination dated 01.08.2009. The application averred that there is

delay of 3347 days, but the same is not intentional. Delay is sought to be explained in the following words :-

“2) *That, for preferring this appeal ought to have been filed on or before 01.09.2009 however there is delay of 3347 days however this delay is not intentional one. After this termination order dt.01.08.2009. This applicant has made numbers of representations and applications to the concerned authority. Trust and government officials and thereon filed Writ petition No.8113/2016 before Hon’ble High Court of Bombay Judicature Bench at Aurangabad in which Hon’ble High Court of Bombay Judicature Bench of Aurangabad (coram – Hon’ble Justice S.V. Gangapurwala and Hon’ble Justice S.M. Gavhane) made order as under:*

“1. *Learned AGP suggests that the petitioner is challenging the order of termination. The remedy would be before the School Tribunal as the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, would apply.”*

“2. *In the light of that the writ petition is disposed of with liberty to the petitioner to avail the alternate remedy. All contentions are kept open. The forum where the proceedings would be filed, shall consider the time spent in prosecuting the present writ petition.”*”

3. Deriving the benefits from the order passed by this Court in Writ Petition No.8113/2016, where it was directed that the period spent in prosecuting the writ petition shall be considered as one spent while availing the remedy. However, it was imperative for the petitioner to explain the time period why he did not bring an appeal on issuance of the termination order on 01.08.2009 till he filed the Writ Petition in the year 2016. The only explanation that is offered while seeking a relief of condoning the delay, is that he preferred number of representations and

applications to the concerned authorities, government officials and the Trust. The petitioner has, however, not brought on record a single application/ representation, which he has allegedly preferred to the authorities.

4. It is trite position of law that the delay, if bonafide, is liable to be condoned provided that the authority or the court is satisfied that the delay is bonafide and is explained by justifying it's occasion. Any attempt, which is as vague as in paragraph 2 of the application, can only be termed as perfunctory and in the absence of any sufficient cause being shown to condone the delay, the learned School Tribunal has rightly refused to condone the same. Though it is not necessary at times, if it is found that the delay is bonafide, that every day's delay will have to be explained, but it also cannot be considered when a vague explanation is offered as one in the present case by merely making a specious plea that a number of representations and applications are preferred to the authorities and the Government officials sans any details or documents accompanying the application.

5. The petitioner may have a good case on merits, but since he has failed to observe due diligence in exercising the remedy at the earliest point of time, he has missed an opportunity for his grievance being redressed and specifically when the School Tribunal has turned down his request for condonation of delay of 3347 days. As such, no interference is

called for in the impugned order. Necessarily upholding the impugned order, the Writ Petition is dismissed.

kps

(SMT. BHARATI H. DANGRE, J.)