

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

49 WRIT PETITION NO.3781 OF 2021

NAGNATH PANDHARINATH WARKAD BHOSALE
SECRETARY, SANT TUKARAM BAHU UDDESHIYA SHIKSHAN
SANSTHA, SAROLA
VERSUS
VENKAT PANDURANG SURYAWANSHI AND OTHERS

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Advocate for Petitioners : Mr. Pushkar S Shendurnikar
Advocate for Respondent No.1 : Mr. Satish M. Manale

CORAM : RAVINDRA V. GHUGE, J.
DATE : 7th March, 2022

ORDER:

1. I have considered the submissions of the learned Advocates for the respective sides and have perused the petition paper book with their assistance.

2. The appellant Venkat Pandurang Suryawanshi has preferred an appeal under section 9 of the M.E.P.S. Act bearing Appeal No.23/2018 challenging the reversion order passed by the petitioner management dated 24.09.2018. The order of reversion is dated 24.09.2018. The appeal has been filed on 01.11.2018. The limitation period is of 30 days. If at all there is any delay, the same is only of six days. No application seeking condonation is filed.

3. The petitioner management preferred an application Exh.69 before the Tribunal seeking an order of dismissal of the appeal on the ground of limitation. Previously, the petitioner had preferred an

application Exhibit 42 seeking a similar order. Such application was filed even before the written statement was entered. Therefore Exh.42 was disposed off. By the impugned order dated 11.03.2020, the School Tribunal rejected Exh. 69 by drawing a conclusion that there is some interpolation on the postal envelope Exh.40/2 and there is some manipulation at the end of the management in creating a picture that the order of reversion sent to the appellant was refused to be accepted by him.

4. I find that there is much ado about a non specific issue. Even if it is presumed that the appellant refused to accept the order of reversion, the delay is of only six days. Considering the law laid down in the cases of Collector Land Acquisition, Vs. Mst. Katiji & Ors, 1987 AIR 1353, 1987 SCR (2) 387 and Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy and others, (2013) 12 SCC 649, the issue of delay and that too of such a minor delay of six days, has to be dealt with, liberally.

5. In view of the above, I find that the order below Exh. 69 does not have much bearing on the appeal preferred by the appellant which is pending adjudication for the last four years only due to various offshoots created in the matter.

6. The learned Advocate for the petitioner management submits on instructions that even if the delay is of six days, the same can be

considered by the Tribunal while deciding the main appeal. The learned Advocate for the appellant is agreeable.

7. In the peculiar facts of the case, I am of the view that the Tribunal, while deciding the issue of delay of six days alongwith the merits of the appeal, can ignore the aspect as to whether the appellant filed an application for condonation of delay or not. The contentious issue, besides the merits in the appeal, between the parties is that there is some doctoring of evidence as regards the postal evidence in relation to postal remark of the postman. Both the parties are willing to ignore this aspect and as such, the impugned order would not come in the way of a decision in the appeal.

8. In view of above, this petition is disposed off by observing that certain observations made by the School Tribunal in the order below Exh.69 would not come in way of the decision in the appeal while considering it's merit.

9. The delay of six days is negligible and the School Tribunal should concentrate on the merits of the appeal and decide the same as expeditiously as possibly and preferably on or before 30.07.2022 since both the parties informed that the appeal is ready for advancing final arguments.

(RAVINDRA V. GHUGE, J.)