

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

WRIT PETITION NO.1015 OF 2022

1. Shri Shivaji Shikshan Prasarak Mandal,
Hingoli, Tq. & Dist. Hingoli,
Shivaji College, Hingoli, Kothlaj road, Hingoli,
Through its Secretary,
Shri Vasantrya Pawar,
Age : Major, Occu : Agri,
2. The Principal,
Shivaji Mahavidyalaya,
Hingoli, Tq. & Dist. Hingoli .. Petitioners

Versus

1. Shriram Parbhatrao Netne
Since deceased through his L.Rs
- 1-A) Suvarnakanta Shriram Netne,
Age : 41 years, Occu : Nil,
- 1-B) Ratnadeep Shriram Netne,
Age : 17 years, Occu : Student,
- 1-C) Dhammadeep Shriram Netne,
Age : 14 years, Occu : Student,

Respondent No.1-B and 1-C are minors,
Through their guardian respondent no.1-A.

All R/o. At post Khandala,
Tq. & Dist. Hingoli.

2. Swami Ramanand Tirth Marathwada
University, Vishnupuri, Nanded,
Through its Registrar.
3. Board of College and University
Development, Swami Ramanand Tirth

Marathwada University, Vishnupuri,
Nanded, Through its Director.

4. The Director,
Directorate of Technical Education,
Maharashtra State Pune.
5. The Joint Director,
Higher Education,
Nanded Division, Nanded. .. Respondents

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Mr. Sachin S. Deshmukh, Advocate for the petitioner.
Mr. K.B. Jadhavar, AGP for the respondent – State
Mr. U.R. Awate h/f. Mr. Talekar & Associates, Advocate for
Respondents No.1A to 1C.

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WITH

CIVIL APPLICATION NO. 12362 OF 2022

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CORAM : SANDEEP V. MARNE, J.

DATE : 18-11-2022

ORAL JUDGMENT :

. Rule. It is made returnable forthwith. Mr. K.B. Jadhavar, the learned AGP waives service for the respondent – State and Mr. U.R. Awate, learned advocate waives service for respondents No.1A to 1C. At the joint request of the parties, the matter is heard finally at the admission stage.

2. The present petition is filed challenging the order dated 08.06.2021 passed by the Presiding Officer, University and College Tribunal, Aurangabad in Appeal No. SRTMU-1 of 2020. By that order the Tribunal has set aside 'otherwise termination' of respondent dated 15.06.2011. It appears that during pendency of the proceedings the

employee - respondent no.1 expired. On account of this, instead of directing reinstatement the Tribunal directed the Management to pay arrears of salary during the period from 15.06.2011 to 27.09.2020.

3. Mr. Deshmukh, the learned counsel for petitioners submits that order has been passed by the Tribunal in absence of petitioners. He submits that the nature of appointment of respondent disentitled him to any relief before the Tribunal. He submits that respondent no.1 has voluntarily abandoned job. He further submits that these aspects were required to be brought on record before the Tribunal for proper adjudication of the matter on merits.

4. Per contra, Mr. Awate, the learned counsel appearing for respondent no.1 opposes the petition and supports the order passed by the Tribunal.

5. After having heard the learned counsel for the parties, it is apparent that there was delay in filing the appeal by respondent no.1 on account of which Misc. Application No.1 of 2017 was filed seeking condonation of delay. The petitioners appeared in the matter and filed affidavit-in-reply opposing the application for condonation of delay. By order dated 27.01.2020 the application for condonation of delay came to be allowed and notices were issued to respondents

in the appeal returnable on 04.03.2020.

6. It appears that the petitioners failed to appear before the Tribunal in pursuance of the said notices.

7. In absence of any representation on the part of the petitioners, the Tribunal has proceeded to decide the appeal in favour of respondent no.1 by order dated 08.06.2021.

8. No doubt, petitioners have been negligent in prosecuting appeal before the Tribunal. It is also a matter of fact that the nation was in the grip of Covid-2019 pandemic since around 15.03.2020. Also, considering the defences adopted by petitioners, it would be necessary in the interest of justice that petitioners be given an opportunity to present their defence before the Tribunal. For act of petitioners in not appearing before Tribunal, costs are required to be imposed on them.

9. In view of above, I proceed to pass the following order.

ORDER

(i) Order dated 08.06.2021 passed by the Presiding Officer, University and College Tribunal, Aurangabad is set aside and Appeal No. SRTMU-1 of 2020 is restored on the file of the Tribunal. Petitioners shall have an opportunity of filing affidavit-in-reply

opposing the appeal within a period of four weeks from today.

(ii) The Tribunal shall make an endeavour to decide the appeal as expeditiously as possible, preferably within a period of six months from today.

(iii) Petitioners to pay costs of Rs.10,000/- to the legal heirs of respondent no.1 within a period of four weeks from today.

(iv) Parties to appear before the Tribunal on 14.12.2022.

10. With the above directions, the Writ petition is allowed. Rule is made absolute. Pending Civil Application is disposed of.

(SANDEEP V. MARNE, J.)

GGP