

September 30, 2022.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11334 OF 2022**

H J Theem Trust, thru. Its Chairman/

Secretary and anr.

....Petitioners

V/s.

Rupali Jitendra Dharmaner and

anr.

....Respondents

Mr. Asadullah Shaikh i/by. Jus Consultus, Advocate for
the petitioners.

Mr. Vinayak R. Kumbhar, Advocate for respondent no.1.

Smt. V.S. Nimbalkar, AGP for State- respondent no.2.

CORAM : SANDEEP K. SHINDE, J.

FRIDAY, 30TH SEPTEMBER, 2022.

P.C. :

1. Heard.

2. Miss. Rupali Dharmaner-Respondent was serving,
as Assistant Professor in petitioner no.2-College, run and
managed by petitioner no.1. Petitioners' terminated her

services in September, 2019. However, she could not present the Appeal within 30 days, before the University and College Tribunal. Therefore, she filed an application under Section 81(3) of the Maharashtra Public Universities Act, 2016 seeking to condone the delay of 200 days. The learned Tribunal, condoned the delay in Misc. Application No. 04/2020 vide order dated 28th February, 2022 subject to costs of Rs.1,000/-. Feeling aggrieved and dissatisfied with the said order, College and Society have filed this petition.

3. Sub-section (3) of Section 81 of the Maharashtra Public Universities Act, 2016 empowers the Tribunal to entertain an Appeal made to it after expiry of the period of 30 days, if it is, 'satisfied', that appellant had sufficient cause for not preferring the Appeal within that period. Therefore, the Tribunal's jurisdiction under sub-section (3) is limited to examine, whether the appellant had made out or shown sufficient cause for condoning delay. Apparently, the Learned Tribunal has exceeded its' jurisdiction, as is evident from the observations in paragraphs-13 and 14 of the impugned order.

4. In any case, after hearing the learned Counsel for the parties, I am satisfied that respondent no.1 has

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shown, 'sufficient cause', for not preferring the Appeal within 30 days. Thus, the delay is condoned subject to cost Rs.2,000/-. As a result, Misc. Application No.4/2020 is allowed.

5. The observations by the Tribunal, while exercising jurisdiction under sub-section (3) of Section 81 of the Act, were obviously unwarranted and therefore expunged.

6. Needless to say, Tribunal shall decide the Appeal on its' own merits without being influenced by the observations made in the order in Misc. Application No. 4/2020.

7. The petition is partly allowed and disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)

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