

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.2559 OF 2022**

Shri. Sachin Bapuso Atigre Petitioner

Versus

The President,
Kai.Dinkarrao Va Shamrao Pawar-Patil Bandhu
Kala, Krida V Sanskutik Sanstha & Ors. Respondents

Mr. Prashant Bhavake for the Petitioner.
Smt. M.S. Bane, AGP for Respondent No.4-State.
Mr. Utkarsh S. Desai for Respondent Nos.1 to 3.

CORAM : A.S. GADKARI, J.
DATE : 27th APRIL, 2022

P.C. :

Petitioner, an Assistant Teacher working with Respondent No.1 has impugned Order dated 9th March 2021 passed in Misc.Application No.11 of 2020, by the Presiding Officer, School Tribunal, Kolhapur rejecting the said application for condonation of delay of 11 months and 12 days in preferring an appeal u/s.9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 against the Order of his termination dated 19th June 2019.

2. Heard Mr. Prashant Bhavake, learned Advocate for the Petitioner, Mr. Utkarsh S. Desai, learned Advocate for Respondent Nos.1 to 3 and Smt.

M.S. Bane, learned AGP for Respondent No.4-State. Perused record.

3. Record indicates that, the Petitioner was appointed as an Assistant Teacher with Respondent No.3 school being run by Respondent No.1. By a Communication dated 19th June 2019, his services were terminated with effect from 20th June 2019. The Petitioner thereafter preferred an appeal before the School Tribunal, Kolhapur. As there was a delay of 11 months and 12 days in filing the said Appeal, he preferred Misc.Application No.11/2020 for condonation of said delay. By the impugned Order, the Presiding Officer of School Tribunal, Kolhapur has rejected the said application.

4. Perusal of application filed by the Petitioner reveals that, sufficient cause for filing appeal belatedly has been made out by the Petitioner. The Appellate Court in its impugned Order though has referred to the decision in the case of *Collector Land Acquisition, Anantnag & Anr. Vs. MST. Katiji & Ors., reported in AIR-1987-SC-1353*, did not extend benefit of the law enumerated by the Hon'ble Supreme Court to the Petitioner. As noted earlier, perusal of application filed by the Petitioner would indicate that, sufficient cause is made out for filing the said appeal belatedly and for condonation of delay of 11 months and 12 days.

5. Learned counsel for Respondent Nos.1 to 3 submitted that, the said

appeal ought to have been filed within a period of 30 days from the date of receipt of termination order. However, the Petitioner has filed the said appeal with inordinate delay of 11 months and 12 days. He therefore opposed the application. He however submitted that if this Court is inclined to condone the said delay by setting aside the impugned Order, heavy costs may be imposed upon the Petitioner.

6. The principals of enumerated by the Hon'ble Supreme Court in *Collector Land Acquisition, Anantnag & Anr. Vs. MST. Katiji & Ors.*, reported in AIR-1987-SC-1353 and *Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy & Ors.*, reported in (2013) 12 SCC 649 are squarely applicable to the case in hand. However, taking into consideration the delay of 11 months and 12 days in preferring the said appeal, this Court deems it appropriate to impose a cost of Rs.10,000/- upon the Petitioner, to be paid to the Kirtikar Law Library, High Court, Mumbai within a period of four weeks from the date of uploading of present Order on the official website of High Court, without seeking further extension in that behalf.

7. Subject to payment of the said cost, delay in filing appeal u/s.9 of the M.E.P.S. Act by the Petitioner is condoned and Petition is allowed in terms of prayer clause (b).

8. The School Tribunal, Kolhapur, is hereby directed to hear the Appeal preferred by the Petitioner on its own merits as per the provisions of law.

(A.S. GADKARI, J.)