

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1268/2021

Satchidananda Chintamani Behera,
Aged about 59 years, Occ. Housewife,
R/o. 201, VIMACO Enclave,
In front of I.G. Bunglow, Camp Amravati,
Tah. & Dist. Amravati.

... **PETITIONER**

...VERSUS...

1. The Vice Chancellor, Sant Gadge
Baba Amravati University,
Tah. & Dist. Amravati
2. Sant Gadge Baba Amravati University,
Through its Registrar Tah. & Dist. Amravati.
3. Joint Director,
Higher Education Amravati Division,
Amravati.

...**RESPONDENTS**

Mr. Amol Patil, Advocate for petitioner.
Mr. S. S. Ghate, Advocate for respondent nos.1 and 2.
Mrs. S. S. Jachak, A.G.P. for respondent no.3.

CORAM:- AVINASH G. GHAROTE, J.

DATED :- 25.07.2022

ORAL JUDGMENT

Rule. Rule is made returnable forthwith. Heard
Mr.Patil, learned counsel for the petitioner, Mr.Ghate, learned
counsel for respondent nos.1 and 2 and Mrs. Jachak, learned
counsel for respondent no.3.

2. The petition challenges the order dated 23.01.2020 passed by University and College Tribunal, Nagpur whereby the application of the petitioner seeking condonation of delay of 1 year 45 days has been dismissed. Mr. Patil, learned counsel for the petitioner, submits that the petitioner has put in 25 years of service, after which his services have been illegally terminated by respondent no.2 by the order dated 24.04.2018, against which the petitioner, under misconception, had approached to the Scheduled Castes and Scheduled Tribes Commission, which had directed his reinstatement, to enforce which order he had approached the Hon'ble Chancellor and various other authorities. However, realizing that an appeal under Section 81 of the Maharashtra Public Universities Act, 2016 would be the only remedy, he had approached the counsel for filing of an appeal, which has been filed on 10.07.2019, resulting in the aforesaid delay. He, therefore, submits that considering the services put in by the petitioner, which have been illegally terminated, the petitioner had a right to file an appeal. It is contended that the reasons given, justify the condonation of the delay and the impugned order does not consider them in their proper perspective, due to which it is liable to be quashed and set aside and the delay is liable to be condoned.

3. Mr. Ghate, learned counsel for respondent nos.1 and 2, with all vehemence at his command, opposes the contention and submits that the petitioner was not entitled to approach the Scheduled Castes and Scheduled Tribes Commission, as no proceedings before it were maintainable to challenge the impugned order, in spite of which, the petitioner intentionally spent that time before the Commission. It is contended that the proceedings before the Commission, are still going on, for which he has invited my attention to the communication dated 28.06.2022 sent by Under Secretary of the National Commission for Scheduled Castes to the Vice Chancellor of the respondent no.2. He further submits that the respondents have been required to approach the Division Bench of this Court challenging the actions initiated by the petitioner with the said Commission. He, therefore, submits that there is no justification whatsoever for the delay occasioned.

4. Learned A.G.P. supports the contention of Mr. Ghate, learned counsel for respondent nos. 1 and 2.

5. It is a matter of record that the petitioner has put in 25 years of service and has thereafter faced the order of termination,

may be after holding of an inquiry. However, right to challenge such a termination is vested with the petitioner under the provisions of Section 81 of the Maharashtra Public Universities Act. The delay occasioned, is on account of approaching a wrong forum under a mistaken impression that it was competent to redress the grievance of the petitioner vis a vis his perceived illegal termination. That being so, the delay is not of such a nature as to disentitle the petitioner of an opportunity to challenge his termination on merits. It is the trite position of law that insofar as delay is concerned, it should not be permitted to defeat the rights of a person to approach the Court of law.

6. Mr. Patil has placed reliance on *Anil Ramdas Pawar Vs. Union of India an Ors.*¹, which holds that the Court cannot suspect the cause for delay unless it is lacking bona fides and acceptability of an application for delay is the criterion and not the length of time, relying upon *Esha Bhattacharjee Vs. Managing Committee of Ragunathpur Nafar Academy*,² in which the parameters of sufficient cause have been enunciated and it has been held by the Hon'ble Apex Court that there should be a liberal,

1 2020 (4) Mh.L.J. 280

2 2013 (12) SCC 649

pragmatic, justice orientated non pedantic approach while dealing with an application for condonation of delay, for the Courts are not supposed to legalize injustice but are obliged to remove injustice.

7. The facts narrated above and the approach directed by the Hon'ble Apex Court would indicate that a ground for condonation of delay was made out. The learned tribunal, from the perusal of the impugned order, appears to have gone into technicalities, which were not justified to be looked into, considering that the matter merited a liberal approach in considering the question of condonation of delay.

8. In view of above, the writ petition is allowed. The impugned order dated 23.01.2020 passed by University and College Tribunal, Nagpur in Misc. Application No.16/2019, is hereby quashed and set aside. The application for condonation of delay is hereby allowed.

Rule is made absolute in the above terms. No order as to costs.

JUDGE

kahale

Digitally signed by YOGESH
ARVIND KAHALE
Signing Date: 26.07.2022
15:27