

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13819 OF 2022

Sambhaji Jagannath Bhosale

...Petitioner

V/s.

The President, D.P. Bhosale,

Shikshan Sanstha and Ors.

...Respondents

Mr. Dilip Bodake, for the Petitioner.

Mr. Vinayak R. Kumbhar i/by. Ms. Ashwini Navjyot Bandiwadekar,
for Respondent Nos.1, 2, 4 to 6.

Mr. Sanjay D. Rayrikar, AGP for State.

CORAM : SANDEEP V. MARNE, J.

Dated : 21 September 2023.

P.C. :

1. By this petition, Petitioner challenges order dated 24 January 2020 passed by the Presiding Officer, School Tribunal, Kolhapur . The Tribunal has proceeded to reject the application filed by the Petitioner for condonation of delay. While deciding the application, the Tribunal came across the factum of filing of earlier Appeal No. 69/2012 by the Petitioner for the same cause of action for his alleged termination from service. The Tribunal found that Petitioner's earlier Appeal No.69/2012 was dismissed after considering the merits thereof by a detailed judgment and order dated 16 March 2015. Petitioner challenged the Tribunal's order dated 16 March 2015 before this Court by filing Writ Petition No. 4874/2015 which

came to be dismissed by order dated 11 April 2016. Thereafter, the Petitioner instituted fresh Appeal before the School Tribunal once again challenging his alleged termination from service. After finding that the Petitioner was attempting to have another bite at the cherry, the Tribunal has refused to condone the delay while holding that the Appeal itself is not maintainable.

3. Mr. Bodake, the learned counsel appearing for the Petitioner would submit that while deciding the issue of condonation of delay, the Tribunal could not have gone into the issue of maintainability of the Appeal. His alternate submission is that in the event the Tribunal desired to go into the issue of maintainability, the Petitioner ought to have been put to sufficient notice in that regard. I find both the submissions sought to be canvassed on behalf of the Petitioner to be unfounded. In my view, filing of a fresh Appeal by the Petitioner once again questioning his alleged termination is gross abuse of process of law. Having failed before the School Tribunal in Appeal No.69/2012 and before this Court in Writ Petition No. 4874/2015, the Petitioner showed the audacity to once gain file a fresh Appeal before the Tribunal for the same cause of action. The Tribunal has correctly rejected the application for condonation of delay which has also resulted in rejection of the Appeal. No error can be found in this approach adopted by the Tribunal. The Writ Petition being devoid of merits is **dismissed** without any orders as to costs.

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SANDEEP V. MARNE, J.