

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

WRIT PETITION NO.1903 OF 2018

1. Vinod Education Society, Gose (Ba)
Taluka Pauni, District Bhandara,
through its Secretary Gangadhar
Nathuji Dongre.
 2. Vinod High School, Gose (Bz) Taluka
Pauni, District Bhandara, through its
Headmaster
- ... Petitioners

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1. Education Officer (Secondary), Zilla
Parishad, Bhandara.
 2. Chango Dasaram Rangari, aged 61 years
and resident of Dighori, Amgaon, Taluka
and District Bhandara.
- ... Respondents

Shri H.S. Chitale, Advocate for Petitioners.
Shri K.L. Dharmadhikari, A.G.P. for the Respondent No.1/State.
Shri M.K. Kulkarni, Advocate for the Respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 05 JANUARY, 2023.

ORAL JUDGMENT

1. Heard.

2. **RULE.** Rule returnable forthwith. Heard finally by consent of
the parties.

3. In this writ petition, the petitioners management of the school raised the question to the correctness and legality of the judgment and order dated 16.01.2018 passed by the learned Presiding Officer, School Tribunal, Nagpur, thereby condoning the delay of 27 years and 7 months to file an appeal under the provisions of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977, (hereinafter referred to as “MEPS Act”) challenging the termination dated 20.05.1988.

4. I have heard the learned counsel for the respective parties.

5. Shri Chitale, learned counsel for the petitioners submits that the respondent No.2 was appointed in the year 1987 and he served from 07.07.1987 to 19.05.1988 and on 20.05.1988, he was terminated.

6. It is pointed out that initially on 27.12.1989 the respondent No.2 filed a complaint under the provisions of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as “MRTU and PULP Act”) before the learned Labour Court. The learned Labour Court was allowed the complaint and directed the petitioners to reinstate the respondent No.2

vide judgment and order dated 23.06.1994. It is pointed out that the petitioners carried revision against the said judgment and order before the learned Industrial Court and the learned Industrial Court by an order dated 25.08.1998 set aside the judgment and order of the Labour Court. He further points out that though the respondent No.2 was knowing that the complaint filed by him was not maintainable as held by the learned Industrial Court, instead of filing of an appeal under the provisions of the MEPS Act, he preferred the writ petition which came to be dismissed on 22.04.2014 and thereafter, more than two years he filed the appeal.

7. It is pointed out that there is a delay of 27 years and 07 months and now the respondent No.2 has already crossed the age of superannuation. He, therefore, submits that the impugned order is erroneous and liable to be quashed and set aside.

8. On the other hand, the learned counsel for the respondent No.2 supports the judgment and order passed by the School Tribunal and submits that the learned Tribunal has rightly allowed the application for condonation of delay. He further submits that the Court should not adopt hyper-technical approach in the matter of delay and accordingly, he

placed reliance on the judgment of the Coordinate Bench of this Court in the case of *Smt. Shewantabai wd/o. Kashinath Kumbhare (D) & Ors. Vs. Purushottam s/o. Mahadeorao Ambatkar*¹, and judgment of the Karnataka High Court in the case of *P. Amarnatha Shetty v. Vishweshwara Bhat and others*².

9. Shri Dharmadhikari, learned A.G.P. for the Education Officer supports the impugned judgment and order.

10. There is no dispute in the present matter that the respondent No.2 served in the petitioner No.2-School during the period 07.07.1987 to 19.05.1988 and on 20.05.1988, he was terminated. Thereafter, the respondent No.2 did not file any proceeding immediately, but a complaint was filed after more than one and half years by way of before the learned Labour Court. Thereafter, the complaint was allowed on 23.06.1994 and thereby, the petitioners were directed to reinstate the respondent No.2. The said judgment and order was reversed by the Industrial Court on 25.08.1988 holding that the complaint under the provisions of MRTU and PULP Act, is not maintainable. Even after the said judgment and order, the petitioners did not file an appeal under the

1 2015(7) ALL MR 425

2 2001 AIHC 2024

C.L.Dhakate

provisions of MEPS Act but chose to file writ petition which came to be dismissed on 22.04.2014 whereby, the order of Industrial Court was maintained.

11. Thereafter, again the respondent No.2 took more than two and half years to file an appeal under Section 9 of the MEPS Act.

12. Thus, from the above referred dates, it can be seen that at every stage there was a huge delay on the part of the respondent No.2. In the circumstances, the submission of the learned counsel for the respondent No.2 that the respondent No.2 is a lay-man and he does not possess the necessary knowledge about the legal matters, cannot be accepted.

13. Thus, considering the delay at every stage, I am of the opinion that the learned School Tribunal has committed an error in condoning the inordinate delay of 27 years and 07 months in filing the appeal. Even otherwise, the respondent No.2 has crossed the age of superannuation.

14. As far as the judgments cited by the learned counsel for the respondent No.2 are concerned, both the judgments are distinguishable on the facts and there is no dispute that in a case of delay, the Court

should not adopt hyper-technical approach. However, in the present case, the respondent No.2 did not take prompt steps at every stage, to file the necessary proceedings. In the circumstances, I pass the following order:

- a) The writ petition is **allowed**.
- b) The impugned judgment and order dated **16.01.2018**, passed by the Presiding Officer, School Tribunal, Nagpur, in Miscellaneous Application No.32 of 2016 is hereby quashed and set aside.

The writ petition is **disposed of** accordingly.

[ANIL S. KILOR, J.]