



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**901 CIVIL APPLICATION NO. 4724 OF 2024
IN
REVIEW APPLICATION (STAMP) NO.3413 OF 2024
WITH
REVIEW APPLICATION (STAMP) NO.3413 OF 2024**

**SHAIKH JAMIL SHAIKH SHABBIR AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mrs.A.N. Ansari, Advocate for the Applicants.
Shri V.M. Kagne, AGP for Respondent Nos.1, 4 and 5/State.
Shri L.V. Sangeet, Advocate for Respondent Nos.2 and 3.

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**CORAM : RAVINDRA V. GHUGE
&
SANDIPKUMAR C. MORE, JJ.**

DATE :- 13th August, 2024

Per Court :-

(a) Civil Application No.4724/2024

1. Delay of 572 days is caused in filing the Review Application. By this Civil Application, the delay is sought to be condoned. Reasons are assigned in the pleadings.

2. The Applicants/ Review Petitioners contend that since they were terminated, they approached the School Tribunal

by preferring their Appeals under Section 9 of the Maharashtra Employees of Private Schools (Condition of Service) Regulation Act, 1977. The Management has contended that this Court has concluded that Petitioner Nos.2 and 3 in Writ Petition No.2511/2017 have not been granted the approval. After noting such stand of the Management, the Petitioners realized that the observation of this Court is being misused by the Management. Hence, this Review Application is filed.

3. The learned Advocate for the Management has strenuously opposed the condonation of delay. His contention is that the delay of 572 days is quite large and the reasons do not justify the prayer for condonation of delay.

4. The learned AGP submits that an appropriate order may be passed by the Court.

5. Delay of 572 days is neither deliberate, nor inordinate. The circumstances expressed by the Applicants, cannot be brushed aside. In view of the pleadings, **this Civil Application is allowed** and the delay is condoned.

(b) Review Application (stamp) No. 3413/2024:-

6. By the consent of the parties, the Review Application has been taken up for hearing.

7. The learned Advocate for the Review Petitioners has drawn our attention to the pleadings set out in paragraph Nos.4 to 11 of the Review Application. It is strenuously submitted that even Petitioner Nos.2 and 3 were granted approval, which is evident from the affidavit in reply dated 16.06.2017, filed by the Shri Subhash Tryambak Warade, Deputy Education Officer (Secondary), Zilla Parishad, Jalgaon. Paragraph Nos.3, 4 and 5 set out in the said affidavit in reply, are specifically pointed out by the learned Advocate for the Review Petitioners wherein, the said Deputy Education Officer submits that all these Petitioners were granted the approval.

8. The learned Advocate for the Review Petitioners submits that confusion has been created by Shri Ganesh Pratap Shivade, Deputy Education Officer (Secondary), Zilla Parishad, Jalgaon, who succeeded Shri Subhash Warade and filed the

additional affidavit in reply dated 15.11.2019 in which, he submits that Petitioner Nos.2 and 3 were never granted the approval.

9. Our order dated 08.06.2022 sought to be reviewed, is very clear. We have noticed seriously disputed questions in the Writ Petition. Not only has the disputed issue pertaining to the approvals of Petitioner Nos.2 and 3, raised before us, a collateral issue as to whether, they were discharging duties or not, was also raised before us. We have summed up the disputed issues in paragraph No.1 of our order dated 08.06.2022. When the Petitioners sought leave to withdraw the Writ Petition, we gave them liberty to approach the learned Civil Court. We are informed that as the Petitioners have been terminated, they now approached the learned School Tribunal.

10. Our order sought to be reviewed, does not crystallize any question and does not resolve any dispute. Having noticed seriously contested and disputed issues, we accepted the request of the Petitioners to withdraw the Writ Petition and avail of a statutory remedy. Hence, in the interest of justice, it would be

appropriate for us to record that as we have not expressed any view or conclusion in our order dated 08.06.2022, the School Tribunal is at liberty to consider all the contentions of the litigating parties and is also at liberty to go through the two affidavits that we have referred to in the foregoing paragraphs and decide the controversy on its own merits. If the School Tribunal notices that one of the two Deputy Education Officers has lied to the Court, it may consider the said issue as is deemed fit and proper.

11. With the above observations, **this Review Application is disposed off.**

kps (SANDIPKUMAR C. MORE, J.) (RAVINDRA V. GHUGE, J.)