



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CIVIL APPLICATION NO.2979 OF 2024
IN
REVIEW APPLICATION (CIVIL) (STAMP) NO.18225 OF 2023

Sadashiv Babulal Pawar,
Age 71 yrs., Occ. Pensioner,
R/o Opp. Pandhari Mangal Karyalaya,
At Post Rahuri, Tq. Rahuri,
Dist. Ahmednagar – 413 705.

... Applicant

... **Versus** ...

- 1 The State of Maharashtra,
Through District Primary Education
Maharashtra State, Pune – 1.
- 2 The Chief Officer,
Municipality, Rahuri,
Tq. Rahuri, Dist. Ahmednagar.
- 3 The Administrative Officer,
Municipality, Rahuri,
Tq. Rahuri, Dist. Ahmednagar.

... Respondents

...

Mr. K.D. Mote, Advocate for applicant

Mr. S.R. Yadav Lonikar, AGP for respondent No.1

Mr. V.S. Bedre, Advocate for respondent No.3 in WP

...

WITH
REVIEW APPLICATION (CIVIL) (STAMP) NO.18225 OF 2023
IN
WRIT PETITION NO.10586 OF 2017

...

**CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.**

DATE : 15th MARCH, 2024

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 **Civil Application No.2979 of 2024** has been filed for condonation of delay of 183 days in filing the review petition.

2 Heard learned Advocate for the applicant and learned AGP for respondent No.1 on the point of delay as well as review petition. Taking into consideration the fact that the reason for delay was the illness of the applicant, the delay deserves to be condoned. Accordingly, **the Civil Application stands allowed and disposed of.** The delay stands condoned. Registry to verify and register the review petition.

3 So far as **Review Petition** is concerned, as aforesaid, the learned Advocate for the review petitioner was directed to address on the point of review on the point whether to see issuance of notice to respondent Nos.2 and 3 is necessary.

4 The petitioner was the original petitioner in Writ Petition No.10586 of 2017 which came to be decided by this Court [CORAM :

DIPANKAR DATTA, CJ AND SMT. VIBHA KANKANWADI, J.] on 16.11.2022. The petitioner retired from the service as a Teacher of municipal school on 31.03.2009 and was invoking the writ jurisdiction of this Court by filing petition on 06.06.2017 for claiming benefit of time bound promotion. This Court by order dated 16.11.2022 dismissed the said writ petition on the ground of delay and laches.

5 Now, the learned Advocate for the petitioner submits that the second time bound promotion came to be rejected for the petitioner on 14.09.2016 and the copy of the rejection was received to the petitioner on 16.09.2016. Then, he had immediately filed the said writ petition. Some document had not annexed, especially the copy of rejection letter dated 14.09.2016 with the petition, but the said document is now annexed and, therefore, the petitioner can justify that there was no delay on his part in approaching the Court. The order passed by this Court on 16.11.2022, therefore, deserves to be reviewed.

6 Taking into consideration these submissions and the memo of review petition, there is absolutely no necessity to issue notice to respondent Nos.2 and 3. At the outset, there is absolutely no reason stated by the petitioner as to why he had not produced the alleged letter of rejection dated 14.09.2016. The original petition is also before us, wherein there is

absolutely no pleading in respect of the said copy of letter of rejection dated 14.09.2016. It is not the case that petitioner had no knowledge about existence of such letter. When he stood retired on 31.03.2009 and was approaching this Court, that too, in writ jurisdiction on 06.06.2017, he ought to have taken care to explain the delay. Now, the petitioner also wants to rely upon representations those have been made by him. That statement was in fact made on behalf of the petitioner when the matter was heard on 16.11.2022. After taking note of the statement by the learned Advocate representing the petitioner that the petitioner was submitting representations one after the other, that point has also been dealt with. In fact, while dictating then the order of rejection even a prayer was made on behalf of the petitioner that directions be issued to the respondents to consider the petitioner's representation. That prayer was also rejected on the ground that directions cannot be issued routinely. This Court then relied on the decision in **Union of India vs. M.K. Sarkar** [(2010) 2 SCC 59]. Thus, every factor was considered by this Court and then there was no error on the fact of the record. For some material which the petitioner omitted to plead and produce, this Court cannot exercise the powers of review.

7 Before parting, we will have to observe that the review petition has been drafted as if it is an appeal challenging the order of which review

has been sought. Such practice is required to be deprecated.

8 We do not find that there is any error on the face of the record requiring review. **The review petition, therefore, stands dismissed.**

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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