



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

57 WRIT PETITION NO. 10252 OF 2022

Narendra Devchand Tayade
Deceased through his L.Rs.

- A] Ratnadip Narendra Tayade,
Age: 43 years, Occu.: Agri.,
- B] Janhavi Narendra Tayade,
Age: 20 years, Occu.: Education,
- C] Raj Narendra Tayade,
Age: 15 years, Occu.: Education,
Minor under the guardianship of
Ratnadip Narendra Tayade.
- D] Shankuntala Narendra Tayade,
Age: 68 years, Occu.: Nil,

All R/o. At Post Chinchol,
Tq. Muktainagar, Dist. Jalgaon.

... Petitioners

Versus

- 1. The Chairman,
Muktainagar Taluka Education Society,
Muktainagar, Tq. Muktainagar, Dist. Jalgaon.
- 2. The Head Master,
Anudanit Ashram Shala, Kothali,
Tq. Muktainagar, Dist. Jalgaon.
- 3. The Commissioner,
Tribal Development, Nashik.
- 4. The Project Officer,
Integrated Tribal Development Project, Yawal,
Tq. Yawal, Dist. Jalgaon.
- 5. The Chairman,
Muktainagar Shikshan Prasark Mandal,
Muktainagar, Tq. Muktainagar, Dist. Jalgaon.

... Respondents

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Advocate for the Petitioner : Mr. Amol S. Sawant.
Advocate for Respondent Nos.1, 2 & 5 : Mr. Mangesh G. Patil.
AGP for Respondent Nos.3 & 4 : Mr. K. B. Jadhavar.
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CORAM : **KISHORE C. SANT, J.**

DATE : 09th December, 2024.

PER COURT:

. Heard the learned counsels for the parties.

2 This petition is filed against the order dated 25th March, 2022 passed by the learned Presiding Officer, School Tribunal, Nashik Region, Nashik in Miscellaneous Application No.5 of 2014, whereby the learned School Tribunal rejected the application for condonation of delay filed by the petitioner, who is no more and now represented by his legal heirs.

3 It is the case of the petitioner that though he was terminated in the year 2007, he was facing criminal charges in which he got acquittal. Against the order of acquittal, a revision was preferred before the Sessions Court. The revision came to be dismissed. The parties, thereafter, approached this Court. However, there also the parties failed.

4 The petitioner, thereafter, approached the office of the Commissioner, Tribal Development, Nashik. The learned Commissioner dismissed the appeal. Thereafter, the petitioner approached this Court by filing Writ Petition No.1857 of 2011. This Court granted liberty to the petitioner to avail appropriate remedy as by then the legal position was settled that the appeals would lie to the School Tribunal. This liberty was granted by order dated 31st January, 2014. Thereafter, the petitioner approached the School Tribunal on 26th February, 2014 by filing application for condonation of delay. By the time the appeal was filed, there was delay of seven years and one month. The learned Presiding Officer, School Tribunal did not find sufficient reason to condone the delay and rejected the application.

5 The learned counsel for the petitioner mainly submits that earlier the petitioner was proceeding before a wrong forum and thus, his case is not under Section 5 of the Limitation Act, but is under Section 14 of the Indian Limitation Act. This Court by order dated 31st January, 2014 has clearly observed that the period spent in prosecuting other remedies shall be excluded. He further submits that, in fact, the delay should have been considered only from the date of order passed by this Court on 31st January, 2014 in Writ Petition No.1857 of 2011, as by that time the petitioner was before this Court and this Court was aware of this position and still granted the liberty.

6 The learned counsel for the petitioners relies upon the judgment of the Honourable Apex Court in the case of ***Esha Bhattacharjee Vs. Managing Committee Of Raghunathpur Nafar Academy and others***, reported in, ***(2013) 12 Supreme Court Cases 649***.

7 The learned counsel for the Management vehemently opposes the petition. He relies on the judgment in the case of ***Basawaraj and another Vs. Special Land Acquisition Officer***, reported in, ***(2013) 14 Supreme Court Cases 81***, wherein the Honourable Apex Court has held that even if law appears to be harsh, still it has to be applied. The inconvenience is not a decisive factor to be considered while interpreting a statute. The statute of limitation is founded on public policy. He also points out that there is no sufficient reason assigned in the application preferred before the Tribunal. At least specific reasons were expected to be mentioned. He, thus, prays for dismissal of the writ petition.

8 Considering the above facts, specifically that till 31st January, 2014 even this Court was aware about the remedies tried to be availed by the petitioner and thereafter, this Court granted the liberty. The learned Tribunal ought to have considered this aspect.

9 In the judgment relied upon by the learned counsel for the petitioner in the case of ***Esha Bhattacharjee Vs. Managing Committee Of Raghunathpur Nafar Academy and others*** (supra), the Honourable Apex Court has held that the Court should not adopt pedantic approach, but should be liberal, pragmatic and justice-oriented. The terms are elastic and are to be applied in proper perspective to obtain the fact situation. Substantial justice to be paramount and pivotal consideration. Considering the above, this Court is inclined to allow the present petition in the following terms:-

ORDER

- I. The writ petition stands allowed.
- II. The impugned order dated 25th March, 2022 passed by the learned Presiding Officer, School Tribunal, Nashik Region, Nashik in Miscellaneous Application No.5 of 2014, is quashed and set aside, subject to the petitioners paying costs of Rs.10,000/- (Rupees Ten Thousand Only) to respondent Nos.1, 2 and 5 within eight weeks from today.
- III. The petitioners are at liberty to file another application giving specific details showing sufficient

reasons caused in filing the appeal. The same be considered by keeping in view the above observations.

[KISHORE C. SANT, J.]

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