



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

903 CIVIL APPLICATION NO. 542 OF 2024
IN WP/1970/2022

BAGUL HEMITA BHIMRAJ

VERSUS

STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

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Mr. A.D. Sonkawade Advocate for Applicant.
Mr. P.S. Patil, Additional G.P. for Resp. Nos. 1 and 3.
Mr. Jayant R. Patil Advocate for Resp. No.2.
Mr. M.D. Narwadkar Advocate for Resp. No.4.
Mr. A.V. Hon Advocate for Resp. No.5.

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CORAM: SMT. VIBHA KANKANWADI AND
S.G. CHAPALGAONKAR, JJ.

DATE : 12th JANUARY, 2024

ORDER :

1. Present Application has been filed for condoning delay of 510 days caused in filing application for restoration of Writ Petition No.1970 of 2022 and recall of order dated 13th June 2022 with the consequential prayer for restoration of the Writ Petition to its original position.

2. Heard learned Advocate Mr. Sonkawade for Applicant, learned Additional G.P. Mr. P.S. Patil for respondent Nos. 1 and 3,

learned Advocate Mr. J.R. Patil for respondent No.2, learned Advocate Mr. Narwadkar for respondent No.4 and learned Advocate Mr. Hon for respondent No.5.

3. Present applicant had filed Writ Petition No.1970 of 2022 for following prayers:-

“(B) By appropriate writ in the nature of certiorari or any other writ of like nature or by appropriate orders the respondents may please be directed to declare the result of petitioner withheld by respondent No.2 authority along with that no adverse action should be taken against petitioner and the petitioner may granted permission to register herself with ARA Committee.

(C) By appropriate writ in the nature of certiorari or any other writ of like nature or by appropriate orders the respondents may please be directed to accept the examination form with fees for next upcoming exam March-2022 of petitioner and allowed to appear for said exam.

(D) By way of ad-interim relief be pleased to direct to respondent Nos. 2 to 5 to declare the result and accept the examination form and take the exam of BHMS course without prejudice to the contentions of the respondents and subject to outcome of this petition.”

4. This Court, by order dated 1st March 2022 was of the opinion that the legality of the order as regards whether admission of the petitioner is approved or not could be considered subsequently, but taking into consideration that the

examination of 2nd Semester of 1st year was to commence, respondent No.5 was directed to declare the result of the petitioner immediately. It was also observed that in case the petitioner was otherwise eligible, then she should not be refrained from appearing for the examination only on the ground that her admission is not approved.

5. It has been submitted on behalf of the applicant that accordingly the applicant appeared in the examination. However, it appears that as regards the original Writ Petition is concerned, there were office objections and therefore, by common order dated 13th June 2022, time was granted till 28th June 2022 for the removal of the office objections and it was a conditional order that failing which the matter would stand dismissed automatically without further reference to the Court. The applicant failed to remove the office objections and therefore, her Writ Petition was treated as dismissed in view of the said order.

6. Thereafter, instead of filing an application for setting aside the said order dated 13th June 2022 and for restoration of the writ petition, it appears that the present applicant filed fresh Writ Petition i.e. Writ Petition No.4967 of 2023. By order dated 28th

April 2023 when it was pointed out about Writ Petition No.1970 of 2022 that was already filed, the applicant was directed to take steps for restoration. Again the time limit was given. Those steps were supposed to be taken by the applicant within 15 days from the date of order i.e. 28th April 2023. But still it appears that the present Application has been filed on 21st December 2023.

7. Now, the learned Advocate for the applicant submits that once again the result of the applicant has been withheld. It is said that due to the personal difficulty of the applicant, she could not approach the Advocate for filing the civil application for restoration. In fact when it comes to condonation of delay, the law is well settled that delay has to be explained properly and personal difficulty cannot be a good ground. Further, when this Court in its order dated 28th April 2023 had taken the liberal view and granted time to file application for restoration within 15 days from the date of the order, still at-least about six months time has been taken for no reason at all. Still, taking into consideration the fact that the matter pertains to a student and it is in respect of her academic career, we are taking liberal view. But for the delay that has been caused and for the reasons above stated that it is not a good ground, heavy cost is imposed. Thus, we proceed to pass following order:-

ORDER

(I) The Application stands allowed and disposed of.

(II) The delay caused in filing the application for restoration of Writ Petition No.1970 of 2022 stands condoned.

(III) Order dated 13th June 2022 is hereby recalled.

(IV) Writ Petition No.1970 of 2022 stands restored, subject to deposit cost of Rs.25,000/- (Rupees Twenty Five Thousand) within a period of two days, in this Court.

(V) In the meanwhile the office objections be removed.

[S.G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE