

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1322 OF 2018
WITH
CIVIL APPLICATION NO. 1324 OF 2018
IN
SECOND APPEAL (ST) NO. 25289 OF 2018**

The Chairman, Bhavani Education Society, Sangli and Ors. ...Applicants/Appellants

Vs.

Aruna Rajkumar Waychal and Ors. ... Respondents

Ms. Radhika Samant i/b Datta Mane for the Applicants/Appellants.

Mr. Vijay Garad for Respondent No.1.

CORAM : GAURI GODSE, J.

DATED : 4th DECEMBER 2024

ORDER:

CIVIL APPLICATION NO. 1322 OF 2018

1. This application is for condonation of delay of 354 days in filing the second appeal. The second appeal challenges judgment and decree dated 26th May 2017 in favour of respondent no.1 allowing her suit for declaration of applicable pay scale.

2. Learned counsel for the applicants submits that since the Chairman of Applicant No.1 and the Headmaster were unwell at the

relevant time, appropriate steps were not taken to file the appeal within limitation. She relies upon the medical papers annexed to the application.

3. The impugned decree is dated 26th May 2017. The medical papers relied upon by the applicants are of August 2018 and thereafter. Except for raising ground of illness of Chairman of Applicant No.1 and the Headmaster i.e., Applicant No.2, the application is bereft of any explanation with regard to the steps taken by the applicants to file the second appeal within limitation.

4. The grounds raised by the applicants regarding illness cannot be accepted as a justifiable ground for not filing the second appeal within limitation. The Applicant No.1 is an educational institution and thus illness of one of the officer bearers cannot be a ground for not taking steps to file appeal within limitation.

5. For want of sufficient grounds the delay of more than a year cannot be condoned.

6. Learned counsel for the respondent no.1 had made a statement that she has already started receiving pensionary benefits and nothing further survives in the second appeal. He submits that after the impugned decree, Respondent No.1 has superannuated and she has been granted pay scale as per the impugned decree

and has also received all the pensionary benefits.

7. In view of the aforesaid, no ground is made out for condonation of delay. The reasons stated in the application cannot be accepted as sufficient ground for condonation of delay of more than a year.

8. Hence, the Civil Application is dismissed.

9. In view of dismissal of civil application, the Second Appeal stands dismissed.

10. Any other pending applications are disposed of as infructuous.

(GAURI GODSE, J.)