

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3582 OF 2024

Jivhala Society for Mentally
Handicapped ... Petitioner

V/s.

Ughade Rahul Murlidhar and Ors. ... Respondents

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Mr. Tejas Deshmukh, a/w Mr. Harishchandra Chavan
for the Petitioner.

Mr. S. L. Babar, AGP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : MARCH 14, 2024

P.C.:

1. The petitioner is challenging the order dated 2nd November 2023, passed by Respondent No.2 condoning the delay of 10 months and 14 days in filing the appeal under the provisions of Clause 83(1) of the Maharashtra Handicapped Special School and Training Centre Code, 2018.

2. The respondent No.1's services were terminated on 23rd July 2007. He filed the Appeal before Respondent No.2 on 7th June 2008. The Appellate Authority by order dated 15th January 2010 allowed the appeal however, this Court in Writ Petition No.1668 of 2010 set aside the order by directing the respondent No.1 to file application for condonation of delay and to consider the appeal on

merits in case the Appellate Authority condones the delay. The respondent No.1 failed to file application for condonation of delay, hence, the Appellate Authority by order dated 16th February 2012 rejected the appeal.

3. The Respondent No.1, therefore, filed writ Petition No.8735 of 2015 which was allowed on 21st December 2022 by directing the Appellate Authority to consider the application for condonation of delay filed on 27th February 2012.

4. The Appellate Authority on 3rd July 2013 granted opportunity of hearing to the parties and passed the impugned order by condoning the delay.

5. The sufficient cause pleaded and accepted by the Appellate Authority is that the respondent No.1 was suffering from Asthama. He was under the medical supervision of Dr. Anil Kinikar during the relevant time. He, therefore, could not perform daily duties during the said period. The Tribunal accepted the reason furnished by Respondent No.1 treating his sufficient cause under Section 5 of the Limitation Act, 1963. Considering the nature of proceedings, and the scheme of the Act, in my opinion, the Appellate Authority has rightly exercised its power of condonation of delay. Even otherwise it is well settled that the Supervisory Court shall not interfere with the positive exercise of discretion by the Sub-ordinate Court in case of condonation of delay, unless the discretion exercised is perverse.

6. In my opinion, having considered the impugned order in the context, reason furnished and applicability of the provisions of the

Maharashtra Handicapped Special School and Training Centre Code, 2018, in my opinion, no interference under the extraordinary constitutional jurisdiction is called for.

7. The writ petition stands dismissed. No costs.

(AMIT BORKAR, J.)