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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12107 OF 2023**

Pratibha Shankar Bhawar ... Petitioner
Vs.
Gokhale Education Society and Others ... Respondents

Mr. Rahul Rote a/w. Mr. Anilkumar K. Patil for the Petitioner.

Mr. V. Talkute for Respondent nos. 1, 2 and 3.

Mr. P. V. Nelson Rajan, AGP for the State.

CORAM : GAURI GODSE, J.

DATE : 23rd FEBRUARY 2024

P.C.

1. Heard. By consent of the parties petition is taken up for final disposal at admission stage. This petition takes an exception to order dated 7th November 2022 passed by the School Tribunal rejecting the petitioner's application for condonation of delay.

2. Learned counsel for the petitioner submitted that the tribunal has examined the appeal on merits and after recording a finding on merits of the case has rejected the application for condonation of

delay. He submits that the tribunal has also referred to the grounds raised by the petitioner that she had approached the wrong forums and therefore there was delay in filing the appeal, however, the learned tribunal has erroneously observed that the same cannot be a sufficient ground for condonation of delay.

3. Learned counsel for respondent nos. 1 to 3 submits that the petitioner had approached this court by way of filing writ petition seeking similar relief and has suppressed that she had already approached the School Tribunal. He further submits that the tribunal has examined all the contentions of the parties and has given detailed reasons for rejecting the application for condonation of delay. He therefore submits that there is no merit in the petition, petition should not be entertained.

4. I have considered the submissions made by both the parties. I have perused the records. The initial paragraph of the impugned order deals with the merits of the main appeal. Tribunal has in detail examined the appointment order of the petitioner and also examined all the facts which pertain to the merits of the appeal. Thereafter, the

tribunal has also referred to the contention of the petitioner that she had approached various authorities including the Ministry of Education for seeking relief. However, the tribunal has observed that the same would not mean that the petitioner had sufficient and bonafide cause for not filing appeal within the prescribed time. Hence, the tribunal has rejected the application by holding that the petitioner was not diligent in preferring the appeal and there is no sufficient cause made out for condonation of delay of almost two years.

5. I have perused the application for condonation of delay as well as the reply filed by respondent nos. 1 to 3. The petitioner has given detailed reasons regarding the steps taken by her for redressal of her grievance and seeking reinstatement. In paragraph 6 of the application the petitioner has contended that she was under the bonafide belief that management will reinstate her as per directions that were issued by respondent no. 4 i.e. Deputy Director of Education. She thus, has stated reasons for delay and her bonafide belief that she will be reinstated. .

6. Respondent nos. 1 to 3 have opposed the application for

condonation of delay. Essentially the reply contains the merits of the appeal before the School Tribunal. So far as the submission made by the learned counsel for respondent nos. 1 to 3 that the petitioner had approached this court by suppressing the fact that the petitioner had already filed an appeal before the School Tribunal is concerned, it does not appear to have been raised before the School Tribunal.

7. Even otherwise, considering the specific grounds raised in the application for condonation of delay in my view the petitioner has explained the delay by contending that she was under the bonafide impression that she would be reinstated in view of the representation made before the various authorities and directions issued in regard to her representation. Thus, it cannot be said that the cause contended by the petitioner for condonation of delay is not bonafide.

8. The reasons recorded by the tribunal are mainly with regard to the merits of the appeal. Merits of the main appeal cannot be a ground for rejecting application for condonation of delay. Hence, in my view, the petitioner is entitled for hearing on merits. Hence, the delay in filing the appeal before the School Tribunal deserves to be condoned.

9. Hence for the reasons recorded above, writ petition is allowed by passing following order :

(i) Order dated 7th November 2022 passed by the Presiding Officer, School Tribunal, Nashik in Miscellaneous Application No. 12 of 2019 is quashed and set aside.

(ii) Miscellaneous Application. No. 12 of 2019 is allowed and delay in filing appeal is condoned.

(iii) Appeal preferred by the petitioner before the School Tribunal to be registered and heard on merits.

(iv) Writ Petition is allowed in the aforesaid terms.

[GAURI GODSE, J.]