



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition (WP) No. 2852 of 2019

Shri Ganesh Kumeriya, Secretary, Rohit Bahuuddeshiya, Seva Vikas
Sanstha and another

Versus

Naresh S/o Mahadev Ghodke and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.A.Radke, Advocate for the petitioner.

Shri B.C.Chandrakapure, Advocate for the respondent
no.1.

CORAM : ANIL S. KILOR, J.

DATED : 30th APRIL, 2024.

Heard.

2. The application for condonation of delay moved by the respondent no.1 before the School Tribunal, Nagpur challenging otherwise termination with effect from 3rd August, 2015 in appeal, came to be allowed vide impugned judgment and order dated 18th September, 2018, which is the subject matter of challenge in this writ petition.

3. It is the case of the respondent no.1 that he was not allowed to sign the muster roll with effect from 3rd August, 2015 and since there was an assurance from the Management to take back the respondent no.1 in service, he waited till 1st February, 2018 on which date

the appeal was filed challenging the otherwise termination. Whereas, it is the case of the Management that the respondent no.1 resigned from the post on 14th May, 2011 and the said resignation was accepted on 30th May, 2011.

4. However, the learned School Tribunal while deciding the application for condonation of delay has only taken into consideration the issue of resignation and held that since there was no communication issued by the Management, informing the respondent no.1 as regards acceptance of resignation, there is no delay in filing the appeal.

5. The apparent error on the face of record committed by the School Tribunal, is that despite it is the case of the petitioner that respondent no.1 was otherwise terminated with effect from 3rd August, 2015, the learned School Tribunal has not recorded any reasons for the delay from 3rd August, 2015 to 1st February, 2018.

6. There is no whisper in the order about the otherwise termination with effect from 3rd August, 2015. Thus, it is crystal clear that the learned School Tribunal has not dealt with explanation submitted by the respondent no.1 for such delay and at the same time the learned School Tribunal has not considered the reply

filed by the petitioner opposing such delay. Learned School Tribunal, therefore, has committed error in allowing the application for condonation of delay. In the circumstances, I am of the opinion that the matter needs to be remanded back to the learned School Tribunal, Nagpur to decide the application for condonation of delay afresh after hearing both the parties. Accordingly, I pass the following order.

- i. The writ petition is partly allowed.
- ii. The judgment and order dated 18th September, 2018 passed by the School Tribunal, Nagpur in School Tribunal, Nagpur M.A.No. 1 of 2018 is hereby quashed and set aside;
- iii. The application for condonation of delay is remanded back to the School Tribunal, Nagpur to decide the same afresh after hearing both the parties;
- iv. The parties are directed to remain present before the School Tribunal, Nagpur on **7th May, 2024**. Thereupon, the School Tribunal, Nagpur may hear the parties and decide the application for condonation of delay afresh within three months from the date of appearance of the parties.

[ANIL S. KILOR, J.]