



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11472 OF 2023

Jagruti Kamlakar Baisane and another

Versus

Public Education Society, Deopur, Dhule and others

Ms. Khushbu G. Marwadi, Advocate for Petitioners (through video conference);

Mr. G. D. Jain, Advocate for Respondent No.1;

Dr. Kalpalata Patil Bharaswadkar, Additional Government Pleader for Respondents No.3 and 4

CORAM : MANJUSHA DESHPANDE, J.

DATE : 25-04-2025

PER COURT:-

1. Heard the learned Advocate for the petitioners, the learned Advocate for contesting respondent No.1 and the learned Additional Government Pleader for respondents No.3 and 4.

2. The petitioners have challenged the order passed below Exhibit-1 by the Presiding Officer, School Tribunal, Nashik, in Appeal No.23 of 2016, dated 19.01.2023.

3. Petitioners No.1 and 2 are the wife and the mother of deceased Kamlakar Baisane, who had filed appeal before the School Tribunal, Nashik, challenging his termination. While filing

appeal against the order of termination, the delay has occurred in preferring the appeal. Kamlakar had filed an application seeking condonation of delay under Section 9(3) of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 ("the said Act", for short), which came to be rejected by the Presiding Officer, School Tribunal, Nashik vide order dated 29.06.2015. As a result of which, the appeal itself has been disposed.

4. It is contention of the petitioners that the order dated 29.06.2015 was challenged by deceased/Kamlakar in Writ Petition No.9342 of 2015 before this Court. By the order dated 01.12.2015, this Court, after taking into consideration the merits of the matter, allowed the writ petition by quashing and setting aside the order dated 29.06.2015, and directing the School Tribunal to register the appeal preferred by the petitioner and deal with the said appeal in accordance with Section 9 of the said Act. The copy of the order dated 01.12.2015 has been placed on record by the learned Advocate for respondent No.1. After the order passed by this Court in Writ Petition No.9342 of 2015, the appeal was registered. However, during the pendency of the appeal, appellant Kamlakar has expired on 30.03.2021.

5. It is further contention of the petitioners that after the death of appellant since the substantive right of the appellant still

subsist, the petitioners herein filed an application for bringing them as legal representatives of the deceased/appellant on record. The application was filed by the petitioners on 03.12.2021. The said application was filed along with affidavit which was moved on 30.11.2021. After filing of application, order below Exhibit-1 came to be passed by the School Tribunal which is impugned in the writ petition.

. The application has been rejected by the Presiding Officer, School Tribunal, Nashik, observing that after the death of appellant on 30.03.2021, notice came to be issued to the legal heirs of deceased appellant, they have appeared in the matter, but they failed to bring themselves on record within the prescribed period of limitation, therefore, the appeal stands abated. As a result of the said order, the appeal itself has been disposed of.

6. It is contention of the petitioners that considering the prayer made by the appellant in the appeal, against order of his termination and continuity of service, his rights still subsists, and therefore, the delay caused in filing an application for bringing legal heirs on record filed by present petitioners ought to have been allowed by the School Tribunal.

7. Mr. Jain, learned Advocate for respondent No.1 has opposed the petition and contended that though the notices were issued after the death of appellant, petitioners have not caused their

appearance within prescribed period of limitation. Therefore, the Presiding Officer, School Tribunal has rightly passed the order, and therefore, prayer made in the writ petition does not deserve consideration.

8. I have heard the respective parties and gone through the impugned order and documents placed on record.

9. It is not in dispute that the appellant Kamlakar had filed appeal against his termination with prayer to reinstate him. Unfortunately, he has expired during pendency of the proceedings. After the issuance of notice to the legal heirs, the legal heirs caused appearance. However, delay had occurred in causing their appearance. Admittedly, the appellant expired on 30.03.2021 and the application seems to have been filed on 03.11.2021. Hence, there is delay of seven months in filing the application.

10. Though, by filing application the petitioners have not explained the delay occurred in filing the petition. The fact remains that there is delay of merely about seven months in filing the application. Considering that the petitioners are the mother and the wife of the appellant, who are not aware about the legal nuances and procedure required to be undertaken while pursuing the proceeding before the School Tribunal, in my opinion, it would be appropriate to interfere in the order passed by the School Tribunal by quashing and setting aside the impugned order.

11. Accordingly, the writ petition is allowed. The order passed by School Tribunal, Nashik, in Appeal No.23 of 2016 below Exhibit-1 dated 19.01.2023 is set aside. The Presiding Officer, School Tribunal, Nashik Region, Nashik, shall allow the legal heirs of the deceased appellant Kamlakar Magan Baisane, to be brought on record.

12. In view of the above directions, the writ petition stands disposed of.

[MANJUSHA DESHPANDE]
JUDGE

rrdNJAY A. DESHMUKH,