



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

**CIVIL APPLICATION NO. 7302 OF 2024
WITH
CIVIL APPLICATION NO. 12759 OF 2024
IN
WRIT PETITION NO. 63 OF 2006**

Deepak S/o Sukhdeo Paraye
Authorized Officer/Administrator
of Shri Shivaji Shikshan Prasarak
Mandal, Shri Shivajinagar,
Tq. Rahuri, Dist. Ahmednagar .. Applicant

Versus

Karbhari S/o Laxman Korbarne
and others .. Respondents

Shri S. S. Thombre, Advocate for the Applicant.
Shri R. P. Phatke, Advocate h/f Mrs. Vaishali A. Shinde (More),
Advocate for the Respondent Nos. 1 to 6, 8, 10 to 19 and 21 to 23.
Shri P. S. Patil, Addl.G.P. for the Respondent Nos. 24 and 25.

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.
DATE : 21TH JANUARY, 2025.**

ORDER :

. Heard both sides. We are considering application for condonation of delay and application of review simultaneously. The applicant is seeking review of the judgment and order dated 07.09.2009 passed in Writ Petition No. 63 of 2006. There is delay of more than fourteen years in preferring application for review.

2. Learned counsel Mr. S. S. Thombre for the applicant

submits that applicant was appointed as an administrator vide order dated 26.07.2023. Since that date he started looking after the affairs of Shri Shivaji Shikshan Prasarak Mandal. Previously administrative board was looking after the business of the trust. It is submitted that the applicant sincerely wants to comply with the judgment and order dated 07.09.2009 and, therefore, every possible steps have been taken. It is further submitted that applicant is entitled to receive non salary grants from the education department. If those are disbursed, that would satisfy the claims of the respondent Nos. 1 to 23. The delay is not intentional and if it is not condoned irreparable loss would be caused to the applicant.

3. Learned counsel Mr. Thombre further submits that applicant is aggrieved by Clause No. (iii) of para No. 6 of the judgment dated 07.09.2009. It is not disputing the liability to pay the salary to the respondents. He would submit that indulgence of this Court is solicited to a very limited extent without disturbing the entitlement of the respondents. He would submit that applicant runs twelve schools and colleges and entitled to receive an amount of Rs. 3,70,80,736/- towards non salary grants from 2013 to 2023. If those are disbursed, then the balance claim of the respondents can be satisfied.

4. The learned counsel for the applicant submits that applicant is eligible for non salary grants as per the Government Resolution dated 19.01.2013, which is not disputed by the respondents. Previously, also the applicant had auctioned part of

the immovable property, but could satisfy the claims of the respondents partly. It is submitted that the applicant is making bonafide efforts so as to see that order of the High Court is complied with and for that purpose clause 3 of para No. 6 of the judgment needs to be modified.

5. The learned Additional Government Pleader appearing for the respondent Nos. 24 and 25 opposes both the applications of the applicant. It is submitted that no satisfactory explanation has been given for the condonation of delay. The non salary grants cannot be claimed as a matter of right. Those cannot be permitted to be utilized for satisfying the dues of wages of the employees. It is the look out of the applicant to muster the funds to comply the orders.

6. Learned counsel Mr. R. P. Phatke for the respondent/employees strenuously opposes both the applications. He would submit that no case is made out for the review. The applicant failed to comply the orders of High Court. The respondents are required to file contempt proceedings. It has been observed in one of the orders that applicant can incur loan to satisfy the dues.

7. The applicant is seeking review of judgment and order dated 07.09.2009. Initially application for review was filed on 15.04.2014, without there being any prayer for condonation of delay. When it was pointed out to the applicant that unless the delay is condoned application for review cannot be considered on

merits, present application was filed on 27.11.2024. We propose to consider both the applications on merits.

8. The applicant was directed to pay the benefits of 5th Pay Commission with effect from 01.05.1999 within a period of six months. By order dated 06.07.2009 non salary grants were prohibited to be disbursed to the schools run by Shri Shivaji Shikshan Prasarak Mandal. It has been recorded in para No. 5 of the judgment that the then counsel of management assured to pay arrears of the respondents within a period of six months. Relying on the statement, order was passed.

9. We do not find that there is mistake apparent on the face of record for modifying Clause No. (iii) of para No. 6 of the judgment under consideration. Consciously, earlier Division Bench considering the statement of the lawyer directed the management to make payment first instead of making the respondent/employees to wait till disbursement of non salary grants. No case is made out to cause our indulgence in the review jurisdiction.

10. It is the lookout of the applicant as to find out the means to muster up the funds to comply the orders of Court. Considering the submission of the learned Addl. G. P., the entitlement of the applicant to receive non salary grants is under clout. It is further informed by the learned Addl. G. P. that the non salary grants as claimed by the applicant are not ready and available for the disbursement. We have our reservations as to whether non

salary grants can be permitted to be utilized for satisfying the dues of the salary of the employees. We find no merit in the application for review.

11. There is delay of more than fourteen years in present application for review. The applicant claims to have been appointed vide order dated 26.07.2023. There is absolutely no explanation for the delay from 07.09.2007 upto the appointment of the applicant. The delay is inordinate and unexplained. We are unable to agree with the submissions of the applicant.

12. Both applications are rejected.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

bsb/Jan. 25