

3. By the impugned order dated 12th December 2024, the School Tribunal has rejected an application for condonation of delay, filed on behalf of the petitioner. By the application, the petitioner sought condonation of delay of 19 months and 7 days in pursuing an appeal against an order dated 11th August 2022.

The appeal was filed under Section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (MEPS Act). As a consequence of the application being rejected, the appeal sought to be preferred by the petitioner itself stood disposed of with no consideration by the Tribunal.

4. The learned counsel for the petitioner submits that despite service, the contesting respondent Nos.1 and 2 have chosen not to appear before this Court and since this Court had issued notice for final disposal, the petition may be taken up for hearing and disposal. He invites attention of this Court to the reasons contained in paragraph 10 of the impugned order passed by the Tribunal, whereby it was held that the petitioner failed to demonstrate sufficient cause for condonation of delay. It was submitted that the reasons stated in the application for condonation of delay, particularly in paragraph 11 onwards, were not properly appreciated by the Tribunal, particularly in the light of the fact that contesting respondent Nos.1 and 2 in their reply to the said application before the Tribunal, had not adverted to and responded to the reasons stated in the application, while seeking condonation of delay. It was submitted that in these circumstances, this Court may consider allowing the petition, so that the appeal of the petitioner can be considered on its merits by the Tribunal.

5. The submissions made on behalf of the petitioner are considered in the light of the material placed on record. The documents on record show that the order terminating the service

of the petitioner dated 11th August 2022 was passed essentially on an order passed by a State Authority dated 3rd August 2022, recording that the name of the petitioner featured in a list of teachers, who had allegedly indulged in fraudulent practices during the course of appearing for an examination mandatorily required to be cleared by primary teachers. On the basis of the said communication, by order dated 11th August 2024, the service of the petitioner stood terminated w.e.f. 12th August 2022.

6. There is no dispute about the fact that the period of limitation for filing an appeal under the provisions of the MEPS Act is 30 days, while the appeal filed by the petitioner before the Tribunal suffered from a delay of 19 months and 7 days.

7. A perusal of the application for condonation of delay filed on behalf of the petitioner before the Tribunal shows that in paragraph 11 onwards, the petitioner stated specific reasons as to why delay had occurred on her part in approaching the Tribunal. A perusal of paragraphs 11 to 14 of the application shows that the petitioner did state specific reasons while seeking condonation of delay. These included her claim of assurances given by the respondent-Management to take her back in service, due to which she could not take immediate steps for filing the appeal before the Tribunal. The petitioner also specifically stated that due to her financial condition she could not take immediate legal advice to take precipitate action in respect of the order terminating her services.

8. A perusal of the reply filed on behalf of the respondent Nos.1 and 2 before the School Tribunal, while opposing the application for condonation of delay, shows that while the said respondents sought to justify the order of termination of service on merits, there was no reference to the specific reasons stated in the application for condonation of delay filed on behalf of the petitioner. The assertions made therein were not specifically traversed, denied or opposed.

9. In such circumstances, this Court finds that the Tribunal was not justified in holding that the petitioner failed to make out sufficient cause for condonation of delay. The finding of the Tribunal that the statements made in the application for condonation of delay were vague, cannot be sustained for the reason that specific allegation was made against the respondent-Management of having given false assurances to the petitioner about being reinstated in the service, which were not denied by the said respondents. In such circumstances, the findings rendered by the Tribunal are found to be unsustainable.

10. There was nothing for the petitioner to gain by delaying challenge to the order terminating her service. In fact, she had everything to lose and nothing to gain. It was also brought to the notice of this Court that the petitioner along with other similarly situated persons have approached the Aurangabad Bench of this Court by filing writ petition to challenge the basic communication/order of the State Authority, including the name of the petitioner

in the list of teachers allegedly involved in fraud pertaining to the said qualifying examination. In such circumstances, this Court is inclined to allow the present petition.

11. As noted hereinabove, the contesting respondent Nos.1 and 2 have chosen not to appear before this Court to oppose the present petition. Even if this petition is allowed, no prejudice would be suffered by the contesting respondent Nos.1 and 2, as they would be required to only contest the claims made by the petitioner on merits.

12. In view of the above, the writ petition is allowed.

13. Consequently, the impugned order dated 12th December 2024 is quashed and set aside. The application for condonation of delay filed by the petitioner before the Tribunal, is allowed.

14. The Tribunal shall now register the appeal filed by the petitioner and take up the same for consideration in accordance with law.

15. The writ petition is disposed of in above terms.

16. Pending applications, if any, also stand disposed of.

MANISH PITALE, J.