



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

WRIT PETITION NO. 4439 OF 2024

Rajendra Konduji Patil
Aged : 59 Years, Occu : Retired; R/o Rajesh
Colony, Anand Nagar, Chikhali, Tah.
Chikhali, Dist Buldhana.

... PETITIONER

VERSUS

1. Shri Shivaji Education Society, Amravati,
District Amravati, through its President.
2. Shri P. S. Wayal, Principal,
Shri Shivaji Junior College of Education,
Chikhali, Tahsil Chikhali, District Amravati.

[Amendment carried out as per order dated
3/4/2024 passed by Registrar(J).

Shri P. S. Wayal, Principal,
Shri Shivaji Junior College of Education,
Chikhali, Tahsil Chikhali, District Buldhana,
Maharashtra, PIN – 443201.

3. Deputy Director of Education, Amravati
Division, Amaravati.
4. Narendra Bhimrao Dharmale
Aged : Major, Occu : Retired; R/o Arjun
Nagar, Morshi Road, Amravati, District
Amravati.

... RESPONDENTS

Mr. Prashant Gode, Advocate for Petitioner.
Mr. M. A. Sable, Advocate for Respondent Nos.1 & 2.
Ms. D. I. Charlewar, AGP for Respondent No.3/State.

CORAM : R. M. JOSHI, J.
DATE : JUNE 12, 2025.

JUDGMENT

. Petitioner herein wakes up after deep slumber of over a decade, to be precise after 13 years to take exception to the Judgment and order dated 27/8/2009 passed by the School Tribunal, Amravati in Appeal No. 30/2009.

2. The Petitioner has given following reason for preferring the Petition belatedly :

“ It is categorically submitted that, the Petitioner was working as a Lecturer in a College run and managed by the Trust. It is respectfully submitted that the management was bent upon to promote the Respondent No.2, though the Petitioner was entitled for the same. It is further submitted that the management has taken the decision that if the Petitioner litigate with the management then the Petitioner has to leave the job. The Petitioner was under tremendous pressure that whether he question the promotion of Respondent No.2 before the Hon’ble High Court. It was also been told that Petitioner may face problem in getting the terminal benefits. The pension of the Petitioner may be withheld. The Petitioner was unable to take immediate decision of challenging the Judgment of the learned School Tribunal. Therefore, the delay has been caused in filing the Writ Petition. The Petitioner submits that, the Petitioner has been superannuated on 31/8/2020. Therefore, the Petitioner

started collecting the documents required for challenging the Judgment of the learned School Tribunal. The Petitioner accordingly gave instruction to the Counsel for filing the Writ Petition before this Hon'ble Court. Because of which the delay has been caused. There was no intentional delay in approaching before this Hon'ble Court. The Petitioner was interested to pursue the matter; however, due to the threat being received from the management side, the Petitioner could not dare to approach before the Hon'ble Court."

3. In nutshell, it is the contention of the Petitioner that due to the pressure exerted by the Management, he could not file the Petition while in employment challenging the order passed by the School Tribunal on 27/8/2009.

4. During the course of hearing, learned Counsel for the Petitioner was specifically asked to point out any material to support the said contentions/allegations. He was unable to point out anything, but has claimed that it is only out of the pressure exerted by the Management, the Petitioner was prohibited from preferring the Petition earlier.

5. The law on the point of the entertainment of Petition after period of three years is fairly settled to say that though there is no statutory period of limitation prescribed for preferring the Writ Petition, the same should be filed within the period of three years and in case there is a delay, the same must be

explained satisfactorily. It is open for the Court to refuse to entertain the Petition, if it is not filed within reasonable time and filed without justified/genuine reason and more particularly when it is likely to cause prejudice to the other side.

6. As noted above, the Petition has been filed after thirteen years of passing of impugned order i.e. on 12/10/2022. The Petitioner claims that since he was in the employment, and as the Management has pressurised him, he out of fear could not file the Petition. However, he is admittedly superannuated on 31/8/2000. Even thereafter for two years no Petition was filed by the Petitioner, taking exception to the order passed by the School Tribunal. Needless to say that in any event after the superannuation there was no question of there being any pressure on the Petitioner from the Management. Petitioner still takes two more years to file Petition without there being any reason preventing him from the same.

7. Apart from this, from the facts as they appear from the record the case of the Petitioner about so called pressure exerted by the Management is palpably false/concocted/misguiding. The facts on the record indicate that in the year 2005 a vacancy of the post Principal was created. The Respondent No.4 was promoted as Principal on 9/12/2005. The Petitioner preferred Writ

Petition against the Management bearing Writ Petition No.2274/2006. This Petition was withdrawn and order is passed by this Court dated 2/5/2006, whereby the Petitioner was permitted to make representation in respect of his claim. The Petitioner in the year 2007 filed another Writ Petition before this Court being Writ Petition No. 1054/2007. Thereafter he filed appeal before the School Tribunal in the year 2009. The Management as well as Respondent No.4, herein, contested the said appeal and on merit the said appeal came to be dismissed on 27/8/2009. It is held by Tribunal that Respondent No.4 is senior than the Petitioner and that Petitioner has failed to prove that it is case of suppression. Consequently, Tribunal dismissed appeal filed by the Petitioner. It is not the case of Petitioner that he had no knowledge of the said decision.

8. It is necessary to see, whether the case sought to be made out by the Petitioner deserves acceptance on principles of preponderance of probability and applying standards of prudent man. The Court is expected to see whether there is reason to believe existence of fact sought to be canvassed by the Petitioner than its non-existence, in the given facts and circumstances.

9. Admittedly, in the case in hand, since the year 2006 to 2009 Petitioner was continuously pursuing the remedies against the Management by preferring various proceedings and pertinently during this time he was in

employment. For the reason of the said litigations no grudge is shown by Management against him, nor he was victimised in any manner. This Court, therefore, finds it inconceivable to accept the lame excuse sought to be given by the Petitioner that after the decision of the School Tribunal, Management pressurised him, and therefore, the said order was not challenged in reasonable time. Filing of number of litigations including Petitions in this Court also indicate that there were not even financial constraints for the Petitioner to challenge the order impugned in reasonable time.

10. Needless to emphasis that the condonation of delay must be on genuine grounds and not on concocted and flimsy one. In the facts of the case, this Court has no hesitation to hold that the reasons putforth by the Petitioner for condonation of delay are sham and false and created to suit his convenience. Hence, this Court does not accept the same to be genuine in order to condone the delay. Apart from this, acceptance of such imaginary and apparently false reasons to condone inordinate delay would set wrong precedent and it would become a tool in the hands of unscrupulous litigants to seek delay condonation on false pretext and to cause prejudice to other side.

11. With dismissal of appeal right of the Respondent No.4, in the post of Principal came to be accepted. Admittedly, from the date of promotion as

‘Principal’, Respondent No.4 has discharged his duties and on attaining age of superannuation, he has retired from service. The Petitioner is seeking setting aside of the order of Tribunal and all monetary benefits. The grant of any relief to the Petitioner would prejudicially affect the interest of the Respondent No.4. Needless to say that there cannot be question of monetary benefits of one post being granted to two individuals. The Respondent No.4 not only has worked on the post but now is retired and hence serious injustice would cause to the Respondent No.4 even if this Petition is entertained irrespective of the outcome thereof on merit.

12. During the course of hearing after considering these facts it was suggested to the learned Counsel for Petitioner to withdraw the Petition. The Petitioner, however, insisted for order. Since filing of the present Petition is nothing but abuse of law and as the reasons given by the Petitioner for condonation of delay are false on the face of it, so also it would cause prejudice to Respondent No.4, this is a fit case impose exemplary costs upon the Petitioner. However, considering the fact that the Petitioner also is a retired person, lenient view is taken and the cost of Rs.5000/- is imposed upon the Petitioner, to be paid to Matoshree Old Age Home (Vridhya Ashram) near Aadasa Sonpur, District Nagpur within a period of four weeks from today.

13. The Writ Petition stands dismissed accordingly.

(R. M. JOSHI, J.)

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