



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

WRIT PETITION NO. 1476/2025

**Kurve's New Model High School and another Vs. Subhash S/o
Malakarjun Manjarkhede and another**

Office Memoranda of Appearances, directions and orders	Notes, of Court's orders and Registrar's	Office Coram, Court's or Judge's orders

Mr. Nitin Vyawahare, Advocate for Petitioners
Ms. S.V. Wadyalkar, for Respondent No.1

CORAM: ANIL L. PANSARE, J.

DATED : 7th JULY, 2025

1. Heard.
2. The petitioners management and headmaster are aggrieved by the order passed by the Industrial Court condoning the delay of about 2 years 5 months and 22 days in filing complaint under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.
3. As such, the counsel for the petitioners submits that cause to file the complaint, as spelt out by the respondent employee arose lastly in December, 1994 and therefore, the respondent was under obligation to justify the delay from the said period, however, the respondent had in the year 1995 submitted application under Section 33(C)(2) of the Industrial Disputes Act, 1947 for recovery of amount payable towards the alleged overtime dues.
4. The proceedings were filed before the Labour Court and travelled till the High Court and ultimately the High

Court vide order dated 11.08.2013 passed in Writ Petition No. 2276/2002 connected with Writ Petition No. 2992/2001 held that the proceedings under Section 33(C) (2) of the Industrial Disputes Act were not maintainable. The High Court accordingly granted liberty to the respondent to make the claim in appropriate proceedings.

5. Accordingly, the respondent filed complaint under Section 28 of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 but on 01.02.2018. The respondent thereafter made an attempt to justify the delay from the date of passing the order by the High Court and not from the date when cause to file the complaint arose.

6. The respondents averred that he was under tension and mental pressure and therefore could not lodge the complaint within stipulated time. The stipulated time is 90 days with a rider to entertain the complaint after 90 days upon showing good cause.

7. The argument is that the cause as submitted is not justified or justifiable. The counsel for the petitioners has referred to the order passed by the Coordinate Bench of this Court in Writ Petition No. 5553/2016, where in identical situation the Court held that a bald statement that workman was mentally disturbed and there was some family problems and, therefore, could not file complaint within time cannot constitute proper explanation and cannot be termed as a reasonable explanation for condoning the delay.

8. Similar is the status here. The counsel for the respondent submits that the reasons assigned by the Industrial Court that the respondent being not expert in law was not aware of the consequences of the delay and, therefore, the delay is justified.

9. In my view, the Industrial Court committed serious error of law in justifying the delay on the ground that the respondent workman was Class IV employee and was not aware about the legal provisions and consequences thereof. The law is well settled on this point. The Courts should be lenient in such cases but that does not mean that the Court should condone the delay without finding reasonable justification. The Industrial Court has thus passed the order contrary to the settled principles of law. The order is unsustainable.

10. The petition is accordingly allowed. The impugned order dated 28.08.2024 passed in Misc. Delay Application No. 3/2018 by the Industrial Court – 2, Nagpur is quashed and set aside. The application filed by the respondent to condone delay in filing appeal is rejected. No order as to costs.

(ANIL L. PANSARE, J.)