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BEFORE THE SCHOOL TRIBUNAL PUNE

(PRESIDED OVER BY SHRI. D.R.DANDE)

MISC.CIVIL APPLICATION No.08/2026

CNR NO. MHSS12000015-2026

Exh.No.17

Ms.Nita Nandkumar Holkar

Age 46 years,

Occupation : Teacher (presently unemployed)

Residing at Kalpataru Colony,

Malkanawar Classes,Miraj, Tal.Miraj

Dist.Sangli 416410.

...Applicant

V/s.

1. Maharashtra Education Society,

Through its Chief Executive Officer,

MES Bhavan, 1214-1215,

Sadashiv Peth, Pune 411030.

2. The Principal,

Abasaheb Garware Junior College

of Arts and Science,

Karve Road, Deccan Gymkhana,

Pune 411004

3. Education Officer (Secondary)

Zilla Parishad, Pune.

...Respondents

Application for condonation of delay.

Appearances : Shri.Vishal Dushing Advocate for the Applicant.

: Shri. Rajesh Shaligram Advocate for the
Respondent Nos.1 & 2.

: Exparte against Respondent No.3.

JUDGMENT

(Delivered on: 17/08/2026)

1) This is an Application by virtue of Section 9(3) of Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act, 1977 (hereinafter termed as 'MEPS Act') moved for condonation of delay in filing Appeal (against termination) U/s.9 of MEPS Act.

Case of Applicant in nutshell is as under:

2) Applicant Ms.Nita Nandkumar Holkar is Teacher by profession. On 21/05/2013, Respondent No.1 Maharashtra Education Society published an advertisement in Sakal newspaper for recruitment of Assistant Teachers. Accordingly, Applicant applied for the post of Assistant Teacher for chemistry subject. She faced interview on 10/06/2013 and after interview, she was selected as Assistant Teacher for chemistry subject against leave vacancy. Service record of the Applicant is clean and unblemished. She has continuously provided her services to the college from the year 2013 till 30/04/2017. As she has provided her services continuously, she become permanent employee of school. However, without following any procedure and without inquiry, services of the Applicant came to be terminated orally w.e.f.01/05/2017. Applicant ought to have filed Appeal within 30 days from the date of oral termination. However, she could not file Appeal. Thus, delay of 3211 days occurred in filing Appeal.

3) Immediately, after her discontinuation on 30/04/2017 / 01/05/2017 she lost her father. Thus she was in severe emotional crisis. After death of her father, responsibility of performing last ritual and managing family and stabilizing household was saddled on her shoulders. Due to loss of father she had not only suffered mental crisis, but financial crisis also. Thus, it was difficult for her to approach legal advisor and institute Appeal. After regaining mental stability, she addressed letter on

01/08/2018 to the Principal of the College and prayed release of her pending salary, experience certificate and copies of relevant orders. Thus, she started formal efforts to redress her grievance. No effective response is received from Principal to the letter dated 01/12/2018. Thus she again moved another application on 11/08/2020 seeking appointment as Assistant Teacher in the junior college wing. Filing of representations show that Applicant has not abandoned her claim on the post of Assistant Teacher but in good faith she was trying to resolve the matter with the Management. Thereafter, she filed application under Right to Information Act for information regarding recruitment, staff approvals, roster and seniority list etc. She received only partial information, therefore she filed First Appeal. Thereafter, she was compelled to file Second Appeal before State Information Commissioner on 09/01/2021. After four years, State Information Commissioner passed order directing public information officer to provide information sought by the Applicant. Thereafter, she got relevant documents. Applicant spent some time to study and analyze documents and to understand legal implication and thereafter obtained proper legal advice.

4) It was advised to her to file Appeal before the Tribunal. Accordingly, again she addressed detail representation on 27/01/2025 to the Principal setting out her complete service history and her claim of deemed permanency. She issued further follow up letter on 30/01/2025 requesting for absorption against permanent post. But no fruitful result has come. Hence, legal notice was sent to the school Management on 09/05/2025 calling her regularization and absorption in service. Applicant successfully taken steps for getting her grievance redressed initially by filing representation, thereafter by filing Appeal under Right to Information Act and thereafter issuing legal notice, but no fruitful result has come. Thus time was spent in all such exercises. Thus delay occurred in filing Appeal.

Case of the Applicant is meritorious. It is necessary to give opportunity of hearing to Applicant by allowing this delay condonation application and by registering Appeal against termination. Substantial justice should prevail over technicalities. After excluding covid period and period during which she was fighting litigation under Right to Information Act, only short delay of 1608 days is remained which is necessary to be condoned. Lastly, Applicant prayed for condonation of delay of 3211 days/1608 days.

5) In response to the notice of this application, the Respondent Nos.1 & 2 appeared before the Tribunal. Respondent No.1 filed his written statement at Exh.11 and resisted delay condonation application.

It is denied that Applicant was qualified to be appointed as Assistant Teacher and accordingly in pursuance of advertisement published on 21/05/2023, Applicant has applied for the post of Assistant Teacher for Chemistry subject. It is denied that Applicant faced interview and after interview, she is duly selected as Assistant Teacher for chemistry subject. It is also denied that Applicant is terminated from service. It is also denied that Applicant has provided her services continuously from the year 2013 to 2017 and thus she become permanent employee of Respondent No.1 Trust. It is denied that Applicant is illegally discontinued from service. It is also denied that Applicant has good and sufficient cause to condone delay.

6) It is the case of the Respondent Nos.1 & 2 that, the provisions of the Limitation Act are not applicable to the present matter. As per Section 9 (2) of the MEPS Act, the Appeal shall be filed by the employee before the Tribunal within 30 days from the date of receipt of the order of the dismissal. It is categorically mentioned in Section 9 (3) of the MEPS Act, that the Tribunal may entertain an Appeal after 30 days, if it is satisfied that the Applicant has sufficient cause for not preferring the

Appeal within the period of 30 days. No such sufficient cause has been explained by the Applicant in the present application for not preferring the Appeal within the prescribe time limit.

7) Applicant worked for few days against leave vacancy. As per contentions of the Applicant cause of action arose on 30/04/2017. Thus Applicant ought to have filed Appeal on or before 30/05/2017. However, present Appeal/application is filed on 23/03/2026, hence there is inordinate delay of 9 years. There is no sufficient cause with Applicant to condone the delay of 9 years. Applicant miserably failed to explain delay of 9 years. Lastly, Respondent No.1 prayed for rejection of this application.

8) Respondent No.2 filed pursis on record at Exh.13 and adopted contents of the written statement filed by Respondent No.1.

9) Notice of this application duly served to the Respondent No.3/Education Officer, but he did not appear before this Tribunal, therefore matter proceeded ex parte against him.

9) Heard learned counsel for the Applicant Shri.Vishal Dushing and Shri.Rajesh Shaligram for the Respondent Nos.1 & 2.

10) Following points arise for my determination, I have recorded my findings against each of them with reasons as follows:—

	<u>POINTS</u>	<u>FINDINGS</u>
1)	Whether Applicant has sufficient cause for not filing the Appeal against the termination within the prescribed period of thirty days from the date termination ?	..In the negative.
2)	What order?	..As per final order.

REASONS

AS TO POINT NO. 1:

11) In order to substantiate averments in the application, Applicant has relied on 22 documents filed with Exh.4. Said documents include copy of certificate dated 13/09/2007, copy of the application dated 18/11/2013, copy of the personal time table of Applicant for the year 2014-2015, copy of the appointment letter dated 25/08/2015, copy of letter dated 18/11/2020 moved by Applicant for seeking appointment as Assistant Teacher, copy of the application moved under Right to Information Act, copies of Appeal and other proceedings taken place before State Information Commissioner.

Respondents have not filed any document on record.

12) At the outset, I have to mention that per Section 9 of the MEPS Act, employee of the private school who is dismissed or removed can file Appeal against the decision of management within 30 days from the date of service of/receipt of his/her termination order. However, Section 9(3) of MEPS Act reads as under:-

“Notwithstanding anything contained in sub-section (2), the Tribunal may entertain an Appeal made to it after the expiry of the said period of thirty or sixty days, as the case may be, if it is satisfied that the Applicant has sufficient cause for not preferring the Appeal within that period”.

13) On perusal of the wordings of section 9(3), it is ample clear that the employee/teacher who is knocking the doors of the Tribunal after 30 days from the date of receipt of / service of removal / termination order

must have sufficient cause for not moving the Appeal with 30 days from the date of service of termination order/knowledge of termination.

The phrase 'sufficient cause' is very important. 'Sufficient cause' refers to a valid and reasonable explanation for a delay in filing an Appeal or application which is beyond the party's control. It essentially means the party was prevented from acting within the prescribed time limit due to circumstances that a reasonable person would consider justifiable. The court/tribunal has discretion in determining whether a cause is sufficient or not. The provision to condone the delay is designed to prevent cases from being dismissed solely on technical grounds, ensuring that matters are decided on their merits.

Examples of sufficient cause often include:

1. Illness of the party or a close family member.
2. Mistake of law or legal advice from counsel.
3. Death of a close family member.
4. Natural calamities or unforeseen events.
5. Imprisonment of the party.
6. Mistakes or delays in procuring necessary documents.

14) Hon'ble Supreme Court in the case of **Sabarmati Gas Ltd. V/s. Shah Alloys Ltd. 2023 Live Law (SC) 9**, has interpreted the word sufficient cause mentioned in section 5 of the Limitation Act and in paragraph No. 25 of the judgment has observed that sufficient cause means a cause for which party could not be blamed.

Means the reason for condonation of delay should be such that Applicant has no involvement in the delay or the reason of delay should be beyond his control.

15) Negligence, lack of diligence, or inaction are generally not considered sufficient cause. The court/tribunal aims to strike a balance between ensuring timely filing of cases and preventing injustice on technical grounds.

16) It is pertinent to note that, legislature by using its wisdom has prescribed Thirty days time for filing Appeal against termination. Under Employee's Compensation Act, in case of death, dependents of deceased have two years time to file application for compensation. For filing complaint of Unfair Labour Practice 90 days time is prescribed by the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971. No time limit is prescribed for raising reference under Industrial Disputes Act. So different Acts provide different period of limitation.

17) Under MEPS Act legislature has provided only 30 days time for filing Appeal. Intention behind providing Thirty days time is that, terminated employee shall immediately file Appeal and matter shall be disposed of immediately, so that it will not adversely affect smooth functioning of school and rotten relationship shall turn in to health relations within short span. If the matter between Trust and Employee kept boiling for some years, healthy atmosphere will adversely affect and ultimately wealth of nation i.e. students will suffer. So, it is intention of legislature that a person who is terminated from service shall immediately knock doors of the Tribunal and subject of the termination shall not be kept boiling for years together.

18) As per section 9 of the MEPS Act employee who is terminated from service has to file Appeal within 30 days from the date of service of/receipt of termination order. Herein the matter, according to Applicant

she is terminated from service w.e.f.30/04/2017. So Applicant ought to have filed Appeal on or before 01/06/2017. This application is filed on 24/03/2026. As such, there is delay of 8 Years, 9 Months and 23 days in filing Appeal.

19) Let me now examine whether the Applicant has sufficient cause for not filing Appeal within limitation of 30 days from the date of termination?

On careful scrutiny of the application, reasons for not filing Appeal within limitation can be culled out as follows:-

1. Immediately after termination, father of Applicant died therefore she was in emotional crisis. After departure of her father, responsibility of family shifted on her shoulders, therefore she was facing financial crisis.
2. After termination Applicant time to time moved representations to the Management. Hence she was hoping that her issue will be resolved and she will be absorbed in service.
3. Applicant moved application under Right to Information Act to the Management to get proper information. Document were not made available to her. Therefore she filed first Appeal before the Education Authorities and thereafter filed second Appeal before the State Information Commissioner.
4. Spread of covid/lock-down.

20) Now let me verify whether reasons mentioned in the application are sufficient to condone huge delay of 8 years, 9 months and 23 days.

According to Applicant immediately after termination, her father died. She was mentally disturbed and was not in a position to file Appeal due to mental agony and pain.

It is true that departure of family member or any nearest or dearest is very good ground for condonation of delay. However, in the matter, according to Applicant herself, immediately after her termination

her father died. It is mentioned in the application that after regaining some mental stability, Applicant moved representation to the School Management. Thus it is clear that on 01/12/2018 and thereafter she was mentally stable.

21) In my view, when in the year 2018 Applicant regained mental stability and filed representation to the Management, she could have filed Appeal before this Tribunal. Thus departure of father immediately after termination, cannot be a ground for condoning delay of more than 8 years. Applicant could have filed Appeal immediately when she regained mental stability on or after 01/12/2018. There is no explanation on the part of the Applicant as to why she has not filed Appeal immediately when she regained mental stability.

22) So far as reason that, due to departure of father she was in financial crisis is concerned; there is every possibility that after departure of father responsibility of family members was on the shoulders of Applicant and therefore she was in financial crisis, but financial crisis cannot be ground to condone huge delay of 8 years. It is difficult to believe that for the period of 8 years Applicant was in financial crises.

23) Second reason mentioned is that, after termination Applicant moved representation to the Management to absorb her in service.

It is true that, Applicant moved representations to the Management and also issued legal notice to the Management and requested to absorb her in service. Any prudent person will first take recourse of extra judicial remedies. Any ordinary prudent person will first approach to Management after termination and will try to resolve the matter. Applicant has not committed any wrong by approaching to the

Management, but there should be some limit for waiting for positive response from the Management.

24) In the year 2018 and 2020 she moved representations. No response is received from the Management, in such circumstances Applicant ought to have accepted that Management is not going to accommodate her in service. So the reason that she was hoping that Management will give positive response to the representations and accommodate her in service is nothing but act of sleeping over her rights. Ordinary prudent person will not wait for years together with a hope that Management will accommodate him/her in service. So Applicant has not acted like ordinary prudent person. So this reason also, cannot be a good ground to condone the delay.

25) Main reason for not filing Appeal within time is that, she had moved application under Right to Information Act but as no appropriate information received, she moved first Appeal and thereafter second Appeal before the State Information Commissioner and in that exercise four years have been lapsed. On perusal of documents filed on record it is clear that Applicant has moved application under Right to Information Act, initially to the College/Trust but as no appropriate information/documents were provided by the Management, she moved Appeal to the Educational Authorities and thereafter as no fruitful result has been come, she filed Appeal before the State Information Commissioner.

26) It is true that, on perusal of documents filed at list Exh.4, her second Appeal No.651 of 2021 came to be decided in the year 2024. So near about 4 years have been spent in prosecuting application under Right to Information Act and Appeals.

Now the question is that, whether Applicant prosecuting application under Right to Information Act, first Appeal and second Appeal, under Right to Information Act can be considered as filing proceedings before wrong forum having no jurisdiction? Or it can be said that Applicant was bonafidely litigating the matter under wrong impression that remedy is available there?

27) It is pertinent to note that, termination of the Applicant is oral, so without any formal order of termination she could have filed Appeal. This Tribunal is invested with powers of the Civil Court therefore this Tribunal could have compelled Respondents to produce all relevant documents regarding appointment etc of the Applicant. But instead of knocking the doors of this Tribunal Applicant has wasted her time in prosecuting applications under Right to Information Act as well as first Appeal and second Appeal.

28) It is not case of the Applicant that under wrong impression that remedy is available in Civil Court or High Court, she filed proceeding in Civil Court or Hon'ble High Court. So it cannot be said that Applicant was bonafidely litigating the matter before wrong forum. Therefore, filing application under Right to Information Act and prosecuting First Appeal and Second Appeal cannot be good ground to condone the delay.

29) Second Appeal was decided in the year 2024 and this application is filed in the year 2026. Even after decision of second Appeal Applicant has not taken pains to file the Appeal immediately. She remained silent for months together. It shows that, Applicant was not diligent and careful as well as cautious in respect of her legal right. She was sleeping over her legal right to file Appeal and challenge the termination.

30) Applicant has also pleaded that due to covid period she could not file Appeal. Applicant is terminated from service in the year 2017. Outbreak of covid occurred in India in the month of March 2020. Regular Court functioning resumed in the year 2022. Hon'ble Supreme Court has directed to exclude covid period for taking into consideration the limitation for any suit/Appeal or application. There was no covid outbreak in the year 2017 and after 2022. So covid period also cannot be a good ground to condone the delay in the matter in hand.

31) Learned counsel for the Applicant in support of his arguments relied on authority in the case of **Sayyad Rizwan Sayyad Kasam Vs. State of Maharashtra and others 2023 SCC OnLine Bom27** wherein it is observed that 'limitation to file Appeal against oral termination will commenced when petitioner/employee finally convinced that Management has not taking him/her back in service'.

I have carefully gone through the authority. Herein the matter, Applicant is orally terminated w.e.f.30/04/2017. Applicant moved representations on 01/12/2018 and 11/08/2020, but no response from the Management. So from the date of termination as well as after moving first representation as well as last representation dated 11/08/2020, Applicant came to know that Management is not taking her back in service.

32) So in my view, applying the ratio of above authority at least Applicant ought to have filed Appeal on or before 12/09/2020 i.e. within one month from the date of last representation. But even after moving last representation in the year 2020, five to six years she has not filed Appeal. Thus even applying the ratio of the case of **Sayyad Rizwan Sayyad Kasam Vs. State of Maharashtra and others**(Cited Supra) Applicant cannot get delay condoned.

33) Applicant has also relied on the authority in the case of **Biner Soman Dattatraya Vs. State of Maharashtra and others 2012 SCC OnLine Bom 879** wherein Hon'ble Bombay High Court in paragraph No.7 has observed as follows:-

There is nothing on record and/or demonstrated by the respondents-management that there was intentional delay and that the delay was mala fide and/or with any ulterior motive. Considering the present facts and circumstances and taking overall view of the matter, there is nothing to demonstrate that the petitioner has deliberately and/or intentionally delayed filing of the present appeal. She could not have, in any way, benefited by such delay, when her representations, admittedly, are pending with the management, as well as, with the Education Officer.

34) It is true that, nothing is on record to demonstrate that delay was intentional and it was malafide and with ulterior motive. However, any of the reasons mentioned in the application cannot be considered as reason beyond control of the Applicant. Applicant was negligent. No doubt, death of the father is good ground to condone delay but death of the father of the Applicant occurred immediately after termination. If Applicant would have filed application within 2/3 months after death of her father, that could have been considered as good ground, but after 8 years said ground cannot be used to condone delay. Thus Applicant cannot take shelter of the authority to get delay condoned.

35) Applicant also relied on authority in the case of **Popat Sitaram Godge Vs. Registrar, Amrutwahini Udyog Shetiva Shikshan Vikas Sansthan and another 2015 SCC OnLine Bom 5011**. Said authority is in respect of filing of proceeding before wrong forum having no jurisdiction.

I already observed that, Appellate authorities under Right to Information Act cannot be considered as wrong forum having no jurisdiction. Applicant was well aware that remedy against termination is

not available before the State Information Officer or Information Officer. Thus, this citation is of no use to the Applicant.

36) Last but not list, Applicant relied on authority in the case of **Basanti Prasad Vs. Chairman, Bihar School Examination Board and Others (2009)6 Supreme Court Cases 791**. I have gone through the authority. In the authority trial court convicted petitioner. Appellate court set aside order of trial court. After setting aside conviction delay condonation application filed before the Court.

Facts in the matter in hand and the authority of Hon'ble Supreme Court are altogether different, therefore Applicant cannot take shelter of this authority to get delay condoned.

37) There are two types of delay. One is ordinate and another is inordinate delay. Ordinate delay can be liberally condoned, if Applicant demonstrate sufficient cause, but while condoning inordinate delay Applicant must satisfy to the court that delay was beyond her control. Here in the matter, there is inordinate delay of 8 years 9 months and 23 days delay in filing Appeal and no good grounds are mentioned to condone inordinate delay.

It is true that, if application is rejected, Applicant will suffer from irreparable loss and she will be out of Court/Tribunal at the threshold, but in my view Applicant must have cautious and careful about her right to file Appeal. Applicant was negligent. When she slept over her legal right, this Tribunal cannot assist her.

38) In the case of **Pathapati Subba Reddy (Died) Vs. Special Deputy Collector (LA) LAWS(SC) 2024-4-22** Hon'ble Suprme Court of India in paragraph Nos.23 and 24 has observed as follows:-

23.) In *Basawaraj and Anr. vs. Special Land Acquisition Officer*, (2013) 14 SCC 81 this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Sec. 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

(24.) It would be beneficial to quote paragraph 12 of the aforesaid decision which clinches the issue of the manner in which equilibrium has to be maintained between adopting liberal approach and in implementing the statute as it stands. Paragraph 12 reads as under:

"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute."

39) In view of the observations of Hon'ble Supreme Court in above authority, though law of limitation may harshly affect Applicant, but I have to apply it with all its rigors when the statute so prescribes. All-in-all Applicant failed to prove that, she had sufficient cause for not filing Appeal within the prescribed period of 30 days. Hence, I answer Point No.1 in the negative.

In view of my negative finding to Point No.1, huge delay of 8 years, 9 months and 23 days cannot be condoned. Application is devoid of any merit. It is liable to be rejected. Accordingly following order.

ORDER

1. Application is rejected.
2. No order as to costs.

Date- 17/08/2026.

**(Dnyaneshwar R. Dande)
Presiding Officer,
School Tribunal, Pune**