

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE  
WRIT PETITION NO.4688 OF 2005

Jaiprakash K. Upadhyay	....	Petitioner
Vs.		
Adishakti Hindi Prachar Samiti		
& Ors.	....	Respondents

Shri N.R. Bubna for the Petitioner.

Shri C.K. Thomas for the Respondent Nos.1  
and 2.

Sarvasri M.S. Lagu i/b R.S. Apte for the Respondent No.3.

**CORAM:** R.M.S. KHANDEPARKAR, J.

**DATED:** NOVEMBER 30, 2006

P.C:

Heard. The petitioner challenges the order passed by the School Tribunal dated 7-5-2005 dismissing the appeal filed by the petitioner on the ground that the same was filed beyond the period of limitation, without disclosing sufficient cause for the same. The Tribunal has arrived at the clear finding that the services of the petitioner were terminated from 30-4-2002 and has disbelieved the claim of the petitioner that he was rendering services in the school till 16-8-2003 and therefore the appeal filed in the year 2003 has been held to be barred by the law of limitation. In spite of repeated queries, the learned Advocate for the petitioner has not been able to point

out cogent material on record which could reveal the said finding of the School Tribunal to be either perverse or contrary to the materials on record. Considering the limited scope for interference in exercise of the jurisdiction under Article 227 of the Constitution of India in such orders, and where the order rejecting the appeal on the ground of delay in filing the appeal discloses the finding arrived at on the basis of analysis of the materials on record and which cannot be said to be either perverse or contrary to the materials on record, there is no case made out for interference in the impugned order. The discretion exercised by the School Tribunal while rejecting the request for condonation of delay in filing the appeal also cannot be said to be either perverse or having been exercised in arbitrary manner. Mere reference to the letter of 16-11-2002 by the Education Officer or the affidavit of one of the assistant teachers of the school claiming the petitioner having been in employment till 16-8-2003 cannot prove that the petitioner had rendered services till 16-8-2003, particularly in view of the undisputed fact that the petitioner was not allowed to sign the muster roll after 30-4-2002. The affidavit of the teacher, apart from making a bald claim about continuing service rendered by the petitioner in the said school during the period from 13-6-2001 till 16-8-2003, nowhere discloses as to what subjects the

petitioner was teaching in the school and what was the time-table allotted to him. So also, the letter of 16-11-2002 of the Education Officer merely brings to the notice of the management about some complaint made by the petitioner on 8-11-2002 about refusal on the part of the management to allow the complainant to sign the muster roll as well as failure on the part of the management to pay the salary to the teachers. It does not specifically refers to the grievance of the petitioner himself as such. In the circumstances, no fault can be found with the finding arrived at by the School Tribunal and it does not warrant any interference in writ jurisdiction. The petition, therefore, fails and is rejected.

(R.M.S. Khandeparkar, J.)

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