

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 402 OF 2026

Pandurang Ramchandra Kakade.

...Petitioner.

Versus

The State of Maharashtra and Others.

...Respondents.

Mr. Suhas Inamdar for the Petitioner.

Mr. R. P. kadam, AGP for the Respondent-State.

Coram : Smt. Vibha Kankanwadi, J.

Date : June 11, 2026.

ORDER:

1. Present petition has been filed to challenge the order / communication dated 24th July 2025 by respondent no.2 thereby dismissing the revision application filed by the present petitioner.
2. The petitioner has come with the case that Respondent No.4 is a co-operative society established under the provisions of Maharashtra Co-operative Societies Act, 1960 [for short "**MCS Act**"] and had filed an application under Section 101 of MCS Act on 5th November 2019. The Petitioner states that the Petitioner had filed Co-operative Case no. 23 of 2020 before the learned Co-operative Court at Solapur. The amount of Rs.2,00,000/- was shown to be loan obtained by the petitioner and the proceedings under Section 101 of MCS Act were filed to get the certificate for recovery of the said amount. The said case filed by the

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Petitioner before the Co-operative Court is still pending. However, in the meanwhile, recovery certificate came to be issued on 20th November 2020. Petitioner then challenged the said order by filing a revision application. However, since there was a delay, the Petitioner filed Miscellaneous Application No.290 of 2025 for condoning the delay. Petitioner contends that there were objections taken at the time of scrutiny of her revision though it has been stated in the impugned communication dated 24th July 2025 that the said office had made communication by letter dated 6th June 2025 calling upon the Petitioner to cure the defects mainly in respect of the requisite court fee, the Petitioner had in fact not received such communication. When it was considered by the Respondent No.2, that amount has not been deposited, i.e., 50% of the amount mentioned in the certificate and the court fee was not paid, by the impugned communication dated 24th July 2025 the revision application of the petitioner came to be disposed of.

3. Heard learned advocate Mr. Suhas Inamdar appearing for the Petitioner and learned AGP Mr. R. P. Kadam for Respondent Nos. 1, 2 and 3. No necessity to issue notice to Respondent Nos. 4 to 7.

4. Learned advocate for the Petitioner is relying on the decision of the Division Bench of this Court in ***Pravin L. Chakole v. State of Maharashtra [2024(3) Bom. C.R. 89]*** wherein taking into consideration the earlier decisions in ***Dilawar Hakim Shah v. Special Recovery Officer, Chiplun Urban Co-operative Bank Ltd [2006(1) Bom.C.r. 141]***, ***Shrideep***

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Associates v. State of Maharashtra [2022(3) All. M.R. 46(A.B.)] and ***Kausalya Sampat v. Vasant Sahakari Bank Ltd [2004(6) Bom.C.R. 651]***, it has been held that for deciding the application for condonation of delay, it is not necessary to comply with the mandate of Sub-Section (2A) of Section 154 of MCS Act.

5. Learned AGP objects for entertaining the petition stating that an opportunity was given by Respondent No.2 to the Petitioner to comply with by bringing it to the notice of Petitioner that the requisite Court fee has not been paid.

6. The short question which is no more *res integra* is again brought up in the present matter. It appears that the Respondent No.2 has not taken note of the decisions above referred before making communication dated 24th July 2025, i.e., before taking the action of disposing of the revision application. When the law has been crystallized by stating that when delay condonation application is to be entertained, there is no necessity to make deposit as contemplated under Section 154(2A) of MCS Act.

7. As regards the objection as to deficit Court fee, it can be recovered at any stage and still if any person fails to deposit the amount of Court fee, it can be recovered as arrears of land revenue. For that purpose, extreme step of dismissing the revision application *in limine* cannot be undertaken.

8.

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9. Under such circumstances, petition deserves to be partly allowed. Accordingly, it is partly allowed. The impugned communication and order dated 24th July 2025 passed by the Respondent No.2 is hereby set aside. Respondent No.2 by taking note of the above referred decisions as well as this decision, shall not insist for the payment of 50% of the amount as stated in the recovery certificate issued under Section 101 of the MCS Act, but to proceed to decide the delay condonation application. At the most, the Petitioner can be asked to deposit the deficit Court fee amount by giving a stipulated period. Accordingly, the Respondent No.2 to fix a date preferably within a period of 15 days from the date of receipt of a copy of order for removing the office objections in respect of the deficit Court fee and then to proceed to decide the delay condonation application within a period of two months thereafter.
10. With these observations, writ petition is disposed of.

[Smt. Vibha Kankanwadi, J.]

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