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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5720 OF 2014

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| 1. | Narsingh Ukandrao Telewar
Age – 65 years, Occ – Agri, | PETITIONERS |
| 2. | Datta s/o Ukandrao Telewar,
Age – 60 years, Occ – Agri. | |
| 3. | Bharat s/o Ukandrao Telewar,
Age – 55 years, Occ – Agri. | |

All R/o Rampur, Post Pathri,
Taluka – Kinwat, District – Nanded

VERSUS

- | | | |
|----|---|-------------|
| 1. | The State of Maharashtra
Through its Secretary,
Department of Revenue & Forest,
Mantralaya, Mumbai-32 | RESPONDENTS |
| 2. | Additional Divisional Commissioner,
Aurangabad Division, Aurangabad | |
| 3. | Additional Collector, Nanded | |
| 4. | Sub Divisional Officer, Kinwat,
Taluka – Kinwat, District – Nanded | |
| 5. | Tahsildar, Kinwat,
Taluka – Kinwat, District – Nanded | |
| 6. | Dattatraya s/o Istarai Telewar,
Age – 54 years, Occ – Service,
R/o Farande Nagar,
Pawdewadi Naka,
Nanded, District – Nanded | |

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Mr. Yuvraj V. Kakade, Advocate for the petitioners
Mr. V. G. Shelke, AGP for respondent State

Mr. G. G. Suryawanshi, Advocate for respondent No.6.

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 30th JUNE, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.

2. After hearing learned advocates for the parties, it appears that scope of present petition pertains to opportunity to petitioners of hearing in revision.

3. The subject matter in revision is condonation of delay in appeal against Mutation Entry bearing No. 165 of 1998.

4. Notings on process sheet annexed to the writ petition show, on 28th January, 2014 both the advocates on that date were present and the matter was closed for decision as both the sides had presented their written arguments. The notings further show that, subsequently, after expiry of about one and half month thereafter on 4th March, 2014 notices came to be issued to both the parties and the matter was fixed for hearing again on 24th March, 2014 which happened to be a local holiday and as such, the matter was adjourned to 21st April, 2014.

Notings in respect of 21st April, 2014 show that advocate for the revision petitioners was present and no presence of other side had been recorded, showing them to be absent.

5. After hearing learned advocates for the parties, it appears that there is no dispute about that the respondents in revision could not appear in the matter for want of service on them of the notice issued on 4th March, 2014.

6. Learned advocate for respondent No.6 states that the matter pertains to delay condonation and such matters generally are required to be considered liberally and as such, it may not be necessary to view the same technically.

7. Learned advocate for the petitioners, however, submits that serious prejudice is caused to them, since all along all the authorities have rejected the request for condonation of delay and that the petitioners deserve an opportunity to address the revisional authority in respect of the same. He submits that the delay is enormous.

8. Without going into the merits of rival contentions, having regard to the position that the petitioners do not appear to have been heard after issuance of notice on 4th March, 2014, it would

be expedient and in the interest of justice to let an opportunity to the petitioners to address themselves in the revision filed by respondent No.6.

9. In view of aforesaid the writ petition is allowed and the impugned order dated 5th May, 2014 passed by respondent No.2 in Revision No. 327 of 2013 is set aside. The revisional authority to consider the revision afresh, after granting opportunity to the parties concerned and decide the same on its own merits, without getting influenced by that the earlier order has been set aside. Parties to appear before the revisional authority on 21st July, 2015, which shall obviate necessity of issuance of notice to the parties. Writ petition stands disposed of with no order as to costs. Rule is made absolute in aforesaid terms.

10. Learned advocate for the respondents urges for a specific period within which the revisional authority shall decide the revision. The revisional authority may consider the request and decide the revision preferably within a period of two months from 21st July, 2015.

[SUNIL P. DESHMUKH, J.]