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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5781 OF 2014

Santosh Shivajiappa Reshme
Age-42 years, Occ-Government Contractor,
R/o Rajiv Gandhi Chowk,
Ring Road, Desai Nagar,
D-12, Aaditya Angan Apartment,
Latur, District - Latur

PETITIONER

VERSUS

1. The Transport Commissioner
Transport Commissioner Office,
Administrative Building,
4th Floor, Government Colony,
Bandra (East)
Mumbai - 400 011

RESPONDENTS

2. Assistant Regional Transport Officer,
Regional Transport Office,
Latur, District - Latur

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Mr. S. B. Gastgar, Advocate for the petitioner
Mr. S. P. Daund, AGP for respondent State

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 2nd FEBRUARY, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. The proceedings, which emanated from registration of a vehicle, had resulted in giving rise to certain orders by the Regional Transport Authorities at Latur. Aggrieved by the same,

pursuant to section 57 of the Motor Vehicles Act, the petitioner, had approached the Commissioner, State Transport Tribunal at Mumbai. The appeal has been lodged beyond the period referred to in section 57 of the Motor Vehicles Act, 1988. Along with the appeal, therefore, the petitioner had filed an application seeking condonation of delay.

3. The petitioner submits that, however, before giving any opportunity either in appeal or in the application for condonation of delay and without calling upon the petitioner to give explanation, the Assistant Transport Commissioner, Maharashtra State, Mumbai, has passed the order impugned in the present petition dated 11th June, 2014, purportedly for the reason that the authority has no power to condone the delay and the proceedings have not been filed within the period prescribed u/s 57 of the Motor Vehicles Act.

4. Learned advocate for the petitioner submits that as a matter of fact, the matter had to be looked into from a different angle, as to when the order was passed and communicated to the petitioner and what is the extent of the delay in the matter. The authority being *quasi judicial* authority could not have dealt with the application before calling explanation from the

petitioner.

5. Learned advocate for the petitioner submits that the petitioner deserved an opportunity to explain to the authority that though section 57 of the Motor Vehicles Act may not refer to delay condonation, however, it would not be proper to consider that it has no power to condone the delay and it can be said that the authority could have considered the application for condonation of delay.

6. Learned AGP for the respondents, however, submits that it cannot be said that the authority had committed any error having regard to provisions of section 57 of the Motor Vehicles Act, 1988 from which it is apparent that the authority may not be able to consider application for condonation of delay, if appeal has been lodged after the period referred to in section 57 of the Motor Vehicles Act and the authority does not have any jurisdiction to entertain application and appeal filed beyond the prescribed period of limitation.

7. Learned advocate for the petitioner submits that the petitioner is confident that he will be able to explain the circumstances as to under which the delay, if at all, has occurred and would explain to the authority that having regard to legal

position and provisions of relevant laws, the matter could be considered.

8. The impugned order having been passed apparently without hearing the petitioner, I deem it appropriate that the petitioner should be given an opportunity to place his case before the concerned authority and after hearing the petitioner, the authority may pass appropriate order in accordance with law.

9. Consequently, the impugned order dated 11th June, 2014 passed by Assistant Transport Commissioner, Maharashtra State, Mumbai in File No. TC/KA-1/Appeal/2014 is set aside. The matter before respondents stands restored to the position as was subsisting before 11-06-2014. The respondents to pass orders after granting opportunity to the petitioner.

10. Aforesaid exercise, having regard to that the proceedings pertain to a motor vehicle, be completed as expeditiously as possible and preferably within a period of two months from the date of receipt of this order.

11. Writ petition stands disposed of. Rule is made absolute to the extent as aforesaid.

[SUNIL P. DESHMUKH, J.]