

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.917 OF 2015

**Zilla Vidya Vikas Mandal, Pune
A Society registered under the
Provision of the Societies Registration
Act, 1860 & The Bombay Public Trust
Act, 1950, Through its Honorary Secretary,
Shri. Vasant Sakharam Darekar and Chairman
Shri. Vinayak Ramchandra Avuchat,
Age:-54 years, Occu:-Agriculturist,
Having registered office at 231,
Guruwar Peth, Pune-411002,
bearing P.T.R. No.E-229(Pune).** .. Petitioner

Versus

- 1. Shri. Vasantrao Y. Dorge Patil
Age:-80 years, Occu:-Agriculture,
Address:-Yavat, Taluka Daund,
District Pune-412 214.**
- 2. The Deputy Charity Commissioner,
Pune Region, Pune-411 001.**
- 3. The State of Maharashtra** .. Respondents

**Mr. S. V. Pitre, for the Petitioner.
Mr. Mandar Limaye, for the Respondent No.1.
Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.2 & 3.**

CORAM : R.M. SAVANT, J.

DATE : 13th JULY, 2015

ORAL JUDGMENT

1. Rule, with the consent of the Learned Counsel for the parties made returnable forthwith and heard.

2. The Writ Jurisdiction of this Court is invoked against the order dated 10.10.2014 passed by the Learned Deputy Charity Commissioner, Pune Region, Pune, by which order the application filed by the Petitioner seeking condonation of delay in filing the Change Report No.1018 of 2004 came to be rejected.

3. The Petitioner herein is the reporting trustee in respect of the said Change Report No.1018 of 2004. By the said Change Report the death of one Shri. M. A. Khutwad was sought to be reported along with the change which has taken place on account of the elections which were held to the managing committee of the Trust on 25.09.2004. The said Change Report was filed in the year 2004. However, the application for condonation of delay came to be filed in the year 2014. In the application for condonation of delay it was mentioned that the elections were not held between the period 1997 i.e. the year in which Shri. M. A. Khutwad had died and in the year 2004 elections were held. The Change Report based on the said elections was filed. It was further stated that through BGP.

inadvertence an application for condonation of delay remained to be filed. The said application was replied to on behalf of the Respondent No.1 herein and the reasons mentioned in the application were sought to be questioned. The Deputy Charity Commissioner considered the said application and as indicated above by the impugned order dated 10.10.2014 has rejected the same. Before the Deputy Charity Commissioner reliance was sought to be placed on the judgments of this Court as well as the Apex Court by the Petitioners in support of their case for condonation of delay. The principal ground on which the application for condonation of delay was rejected is that though various Change Reports were filed between 2004 to 2012, however, change on account of death of Shri. M. A. Khutwad was reported only in the year 2004 and that too without an application for condonation of delay. In so far as the judgment of a Learned Single Judge of this Court reported in 2002(3) Mh.J.J. 167 is concerned, the Learned Deputy Charity Commissioner has observed that the application is not being turned down on technical ground, but on merits. How the Deputy Charity Commissioner could decide the merits of the Change Report at the stage of consideration of an application for condonation of delay therefore begs an answer. Be that as it may, in so far as the change to be reported is concerned, moreso on account of the death of a trustee even if there is a delay, no prejudice is

likely to be caused to any party. It is well settled that in matters of condonation of delay a highly technical and pedantic approach should be eschewed and an approach which furthers the cause of substantial justice should be adopted. Hence, having regard to the said well settled principles which are applicable whilst considering an application for condonation of delay, in my view, the impugned order is required to be quashed and set aside and is accordingly quashed and set aside. The application Exh.38 would accordingly stand allowed. The Deputy Charity Commissioner, Pune Region Pune is directed to hear and decide the Change Report No.1018 of 2004 on merits. Needless to state that the Deputy Charity Commissioner would decide the same uninfluenced by the impugned order. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute with parties to bear their respective costs.

[R.M. SAVANT, J]