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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10350 OF 2013**

Mr. Anwar Gulamhusain Bagban

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

Mr. Anwar G. Bagban, Petitioner in person.

Mr. S.D. Rayrikar, AGP, for the Respondent Nos.1 to 3.

**CORAM : A.S. OKA &
K.R. SHRIRAM, JJ.**

DATE : 27th AUGUST, 2015

PC.

. Heard the Petitioner appearing in person and the learned AGP for Respondent Nos.1 to 3. The Petitioner made an application under Section 5 of the Right to Information Act, 2005 seeking certain information. The Petitioner is relying upon the Appellate order dated 26th September, 2012 passed by the First Appellate Authority by which a direction was issued to the fourth and fifth Respondents to furnish information. On the basis of another application made by the Petitioner an order has been passed by the First Appellate Authority under the said Act of 2005 on 26th September, 2012.

2. The Petitioner invoked Sub-section (3) of Section 19 of the said Act of 2005 and preferred a Second Appeal before the Second Appellate Authority. The said Appeal has not been entertained by the Second Appellate Authority by informing the Petitioner by communication dated 26th February, 2013 that the Second Appeal was not preferred within a period of 90 days which is the prescribed period of limitation. It is observed in the said communication that the Appeal ought to have been preferred within 90 days either from the date on which the First Appellate Authority ought to have decided the First Appeal or from the expiry of the date on which the information ought to have been supplied on the basis of the order of the First Appellate Authority.

3. We have heard the Petitioner appearing in person and the learned AGP for the first to third Respondents. Under Sub-section (3) of Section 19 of the said Act of 2005, a power is conferred on the Second Appellate Authority to condone the delay if it is satisfied that the Appellant was prevented by a sufficient cause from filing the Appeal within the prescribed time.

4. We have carefully perused the Memorandum of Appeal filed by the Petitioner in the Appeal. He has relied upon the orders

passed by the First Appellate Authority and has specifically contended in the grounds that no compliance has been made by the Respondents in the Appeal with the orders of the First Appellate Authority. Considering the facts of the case and considering the averments made in the Memorandum of Second Appeal, in fact it was a fit case to condone the delay by invoking powers conferred under Sub-section (3) of Section 19 of the said Act of 2005. Accordingly, the Petition must succeed and we pass the following order :-

ORDER

- (i) Communication dated 26th February, 2013 (Exhibit-'H' to the Petition) is quashed and set aside;
- (ii) The delay in filing Appeal dated 4th February, 2013 (Exhibit - 'G' to the Petition) which was received by the office of the Second Appellate Authority on 7th February, 2013 is hereby condoned;
- (iii) We direct the Second Appellate Authority to decide the Appeal as expeditiously as possible and after giving an opportunity of being heard to all concerned parties;
- (iv) Writ Petition is partly allowed on above terms.

(K.R. SHRIRAM, J)

(A.S. OKA, J)