

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPP) NO. 371 OF 2015

(Pranav Pramod Ashtikar & Anr. vs. The P.S.O. In charge, Wadi P.S., Amravati Road, Wadi, Nagpur & Ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
JUNE 08, 2015.**

Heard Shri Parmar, learned counsel for the applicants and Shri Mirza, learned APP for the respondents.

The prayer is to condone delay of about 14 days in moving application for restoration. In Criminal Applicant (APPW) No. 49 of 2015, there is a prayer to recall the order dated 13.02.2015 and to restore Criminal Writ Petition No. 412 of 2012 back to file.

Shri Parmar, learned counsel submits that on 08.09.2014, this Court directed the matter to be listed in regular course and as such, Petitioner No. 1 who used to appear in person on behalf of the petitioners thought that the matter would not be listed in near future. He, therefore, failed to keep track of the matter. He also points out that as per earlier orders of this Court, the petitioners had filed written notes of arguments in CWP No. 412 of 2012 and the respondents were supposed to file their written notes of arguments.

The learned APP submits that the matter was being listed on board and as such, it was duty of

the applicants/ petitioners to remain present.

The facts show that the petitioners had submitted their written notes of arguments and, therefore, their side insofar as arguments on merits is concerned, was closed. The arguments were to be advanced by the respondents. Hence, even in the absence of the petitioners, written notes of arguments could have been filed by the respondents as per earlier orders.

In this situation, on 08.09.2014, this Court directed the matter to be placed in regular course. Thereafter, the matter was listed on 13.02.2015 and came to be dismissed in default. As such, we do not find any negligence on the part of the applicants / petitioners. In the circumstances, belated knowledge of dismissal also cannot be held to be a circumstance against them.

As such, delay of 14 days in filing Criminal Application (APPW) No. 49 of 2015 is condoned. Criminal Application (APPP) No. 371 of 2015 is accordingly allowed. Criminal Application (APPW) No. 49 of 2015 is also allowed. The order dated 13.02.2015 is recalled and Criminal Writ Petition No. 412 of 2012 is restored back to file.

It is open to respondent Nos. 1 to 5 to file their written notes of arguments within eight weeks from today. List the matter thereafter.

JUDGE

JUDGE