

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

C.A.O.NO. 979/2014 & M.C.A.ST. NO.14350/2014
IN REJ.L.P.A.NO.775/2012 IN W.P.NO. 2240/2011.

Smt. Mulibai Charkha Shikshan Prasarak Mandal, Washim and another.

-VERSUS-

Dr. Leena Ramprasadji Chitlange and others.

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 &
S.B.SHUKRE, JJ.

DATE : APRIL 20, 2015.

Heard Shri R.L. Khapre, learned Counsel
for applicants, Shri Anand Parchure, learned Counsel
for respondent no.1 and the petitioners, Shri M.K.
Pathan, learned A.G.P. for respondent no.4.

2. Prayer is to condone delay of 751 days in
filing Misc. Civil Application. Misc. Civil Application
seeks revision of order dated 11.06.2012 passed by the
Registrar (Judicial). The Registrar by the said order
found that as objections were not removed and,
therefore, registration of L.P.A. filed by the applicants

2

was refused. Prayer of applicants is to restore that rejected Letters Patent Appeal No.775/2012.

3. Shri Khapre, learned Counsel appearing on behalf of the applicants submits that the order of Registrar dated 11.06.2012 went unnoticed. In the meanwhile, as there was a compromise between the employee and the management, a pursis was filed on 25.09.2012 i.e. after rejection of registration to Letters Patent Appeal. The applicants/appellants submit that as the matter was compromised they did not then enquired about the proceedings.

4. When the employee served a notice of order dated 04.04.2014, passed by this Hon'ble Court in Writ Petition No. 283/2014, upon Management, the trace of the said proceedings was taken and then the fact that when pursis was filed, there was no Letters Patent Appeal became apparent.

5. Shri Parchure, learned counsel for the respondent no.1 vehemently disputes the developments. He points out that the orders passed by this Court in Writ Petition No.283/2014 are interim in nature.

6. The facts noted by us supra, show that a

3

pursis informing the Court about compromise was filed on 25.09.2012 i.e. about 3 ½ months after the orders of Registrar (Judicial), refusing registration. It therefore, appears that the rejection of registration was not within the knowledge. The applicants thereafter may not have thereafter bothered about the matter, as according to them, the issue was already settled.

7. According to the applicants, back wages were given up by the employee, in sense that she accepted to receive it, only if paid by the Government and she did not expect any amount from the management. As she resiled from that word and filed Writ Petition No.283/2014 and obtained order placing burden of back wages on management, the proceedings for condonation of delay and for restoration of the Letters Patent Appeal have been filed.

8. Shri M.K. Pathan, learned A.G.P. appearing for respondent no. 4 is opposing the restoration of Letters Patent Appeal by condoning the delay.

9. However, we find that the situation can be looked into on merits as prima facie, it is apparent that

the management had filed a pursis informing this court about compromise in Letters Patent Appeal. However, at the same time the fact that respondent in Letters Patent Appeal had filed Writ Petition no.283/2014, and this Court has passed orders on 28.04.2014, cannot be ignored. The appellants have also filed an application seeking recall of that order.

10. In this situation we order that Civil Application No.2050/2014 be kept pending for its consideration along with Civil Application No. 2049/2015 moved by the petitioner in Writ Petition No. 283/2014.

11. The applicants/appellants in Letters Patent Appeal shall deposit an amount of Rs.50,000/- with the Registry of this Court only to show their bonafides. Subject to such deposit and right of the employee to claim costs, we restore the rejected Letters Patent Appeal No.775/2012 by condoning the delay.

12. If the objections in Letters Patent Appeal are not removed within a period of two weeks from today, the Letters Patent Appeal shall stand dismissed automatically again without further reference to the Court and in that event the amount in deposit shall be

5

allowed to be appropriated by the respondent.

13. Appellants/applicants are directed to serve copy of Letters Patent Appeal to the learned A.G.P.

14. Civil Application and Misc. Civil Application are accordingly disposed of. No costs.

JUDGE

JUDGE

Rgd.