

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) CA NO.5019 of 2012

**930 CIVIL APPLICATION NO. 5019 OF 2012
IN FAST/7456/2012 WITH CA/5020/2012 IN
FAST/7456/2012**

THE STATE OF MAHARASHTRA AND ANR
VERSUS
HIMMAT NATHU PATIL

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AGP for Applicants : Mr.S.P.Deshmukh
Mr.Anudeep Sonar, Adv., h/f Mr.Patil Vijay B., Adv., for
R/sole

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CORAM : P.R. BORA, J.
Dated: August 19, 2016

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PER COURT :-

1. This is an application filed by the State seeking condonation of delay which has occasioned in filing the present appeal by the State against the award passed in Land Acquisition Reference No.589/1993 by the learned Ad-Hoc District Judge-2, Amalner, Dist. Jalgaon. Delay of 1388 days has occurred in filing the present appeal. Learned A.G.P. submitted that though the appeal was drafted promptly, for want of necessary certified copies and copies of different charts as well as for non availability of amount of Court fees, the appeal could not be filed within the stipulated period of limitation. Learned Counsel submits that there are inherent errors committed by the Reference Court and as such, the appeal needs to be heard on merits. It is further submitted that the delay caused is unintentional.

AGP/-

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2. On perusal of the application for condonation of delay it is revealed that the Law and Judiciary Department has scrutinized the proposal for preferring appeal and has accordingly communicated to the Office of the Government Pleader, High Court Bench at Aurangabad, to file the appeal vide its letter dated 22/6/2010. It is the further contention in the application that though as per the direction received from the Law and Judiciary Department, the appeal was immediately drafted, the same could not be filed for want of certified copies of the necessary documents and for want of amount of Court fee. The contention so raised, apparently, cannot be accepted. For securing certified copies of the documents, in no case, it can be accepted that the period of around four years can be spent. It appears that merely so as to provide some reasons for occurrence of the delay, the averments are made. The reasons cited are not at all justifiable and the State cannot be given differential treatment.

3. The Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai, reported in 2012 (5) SCC 157**, held that no premium be given for total lethargy or utter negligence of State officer / machinery / agency / instrumentality and condonation of delay caused by such officer cannot be allowed as a matter of course by accepting the plea that dismissal on the ground of limitation will cause injury to public interest.

4. The Apex Court in the case of **B.Madhuri Gaud Vs. B.Damodar Reddy, 2012 (12) SCC 693** held that if sufficient cause is not shown, delay should not be condoned.

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5 The Apex Court in the matter of **Oriental Aroma Chemical Industries Limited Vs. Gujarat Industrial Development Corporation** reported in **2010 (5) SCC 459**, held that in the absence of sufficient cause, Court should not condone the delay.

6. The Apex Court in the matter of **Pundlik Jalam Patil Vs. Ex.Engg.Jalgaon Medium Project and Ors., 2008(6) BCR 513** held that unless and until sufficient cause is shown, inordinate delay should not be condoned.

7 Recently, the Apex Court in the matter of **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy 2013 (12) S.C. 450** held that if sufficient cause is not shown, application for condonation of delay be rejected.

8. It appears to be a case of gross negligence and lethargy on the part of the Government officials. For want of any sufficient reasons stated for condonation of delay, I am not inclined to condone the delay which has occasioned in filing the present appeal. Hence, the following order:

ORDER

1) The application for condonation of delay is rejected. Consequently, the appeal on Stamp number also stand

AGP/-

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dismissed. Civil Application for stay stand disposed of.

(P.R. BORA, J.)

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