

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.14990 OF 2016
(Divisional Controller Vs.Prabhakar Sahadu Koli)
IN
REVIEW APPLICATION ST.NO.34647 OF 2016
IN
WRIT PETITION NO.2814 OF 2014

Mr.M.K.Goyanka, Advocate for the applicant.
Mr.S.R.Patil, Advocate for the respondent.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 29/11/2016

PER COURT :

1. While dealing with this application for condonation of delay, the applicant, who has preferred the review application, has taken me through the facts of this case. Based on the same, it is sought to be indicated that the judgment dated 24/02/2015 passed by this Court (Coram : N.W.Sambre, J.) dated 24/02/2015 in WP NO.2814/2014, is a result of a fraud played by the respondent/employee. Unfortunately, the order passed by the learned Division Bench of this court dated 06/05/2005 in WP No.1801/2004 and 5743/2004, was not brought to the notice of this Court. Resultantly, the entire facts of the case and the fraud played by the respondent in acquiring a Tribe Certificate indicating that he belongs to “*Tokare Koli*”, were not fully presented before this Court.

2. The reasons for the delay are set out in the application.

3. Mr.Patil, learned Advocate appearing on behalf of the non-applicant/employee has opposed this application. He submits that despite having the knowledge of the entire journey of litigation in between the litigating sides from 2001 onwards, if the petitioner has failed to point out certain aspects, the petitioner will have to blame itself.

4. Considering the above, I do not find that the delay caused could be termed as being deliberate or inordinate. Keeping in view the law laid down by the Apex Court in the matter of Collector, Land Acquisition Anantnag and another Vs. Mst. Katiji and others [(1987) 2 SCC 107], and Isha Bhattacharjee Vs. Managing committee of Raghunathpur Nafar Academy and others [(2013) 12 SCC 649], I find that this application deserves to be allowed.

5. As such, this application is allowed and delay of 601 days is condoned by imposition of costs of Rs.5,000/-. Learned Advocate for the non applicant graciously submits that the costs should be donated to the Advocate's Association of the Bombay High Court,

Bench at Aurangabad.

6. As such, the said amount of costs be deposited with the Advocate's Association of the Bombay High Court, Bench at Aurangabad within a period of 4 (four) weeks from today. Consequent to the deposition of costs, the review application be registered and be placed before the learned Judge who has delivered the judgment dated 24/02/2015.

7. Mr.Patil has caused an appearance in the review application on behalf of the respondent/employee and undertakes to file a *Vakalatnama* within 4 weeks from today.

(RAVINDRA V. GHUGE, J.)