

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1791 OF 2016  
IN  
WRIT PETITION NO. 4077 OF 1999

Shri Tukaram Dnyanoba Pawar and others. ... Applicants.  
V/s.

The Manager, Yervada Prison Press. ... Respondent.

T.J.Kapre i/b. Sanjay Kshirsagar for the applicants.

S.D.Rayrikar, AGP for the respondent.

**CORAM : D.H.WAGHELA, C.J.**

**DATE : 25<sup>th</sup> July 2016.**

**PC. :**

The application is made for restoration of the petition which was dismissed on 17<sup>th</sup> July 2015 by the order as under:

“Though, the matter is shown on the board for “dismissal”, the petitioner and Advocate are absent. Petition is dismissed for default.”

According to the application, the advocate for the petitioner was busy before the other Court and could not remain present when the matter was called out for final hearing and came to be dismissed

with the above order. In absence of any details about learned advocate being busy before other Court, the main ground of the application does not inspire any confidence. Besides that when the matter is actually listed on the board, specifically, for dismissal and if learned counsel chooses to be busy in other Court, he practically invites the order of dismissal of the matter which remained pending for 18 years in the High Court. Such attitude and approach of learned counsel cannot be appreciated.

2. However, in view of the fact that the petition appears to have been filed on behalf of some workmen against the Manager of the Yervada Prison Press and those petitioners may have been waiting for the result of the petition for 18 long years, it may be in the interest of justice that the petition is heard and decided on merits.

3. Learned AGP appearing for the respondent has no objection to allowing the application and learned counsel for the applicant fairly submitted that the application may be allowed by a conditional order and even by imposition of costs so as to ensure that such negligence in attending the hearing of the main petition is not repeated in future.

4. Accordingly, the application is allowed. Writ Petition No.4077/1999 is restored to the file and ordered to be listed for final hearing before the appropriate Court on 7<sup>th</sup> September 2016. However, in case the main petition is again not attended, the Court may pass appropriate orders as to costs while finally disposing the petition. There is no order as to costs.

CHIEF JUSTICE