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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10021 OF 2015

The State of Maharashtra	...	Petitioner
Vs.		
Suhas D. Salokhe	...	Respondent

Mr. V.B. Thadani, AGP for the State- Petitioner.
Mr. Vivek V. Salunke for the Respondent.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.

DATE : JULY 11, 2016.

P. C.

1] Rule. With the consent of and at the request of learned counsel for the parties, Rule is made returnable forthwith.

2] The challenge in this petition is to the order dated 23 July 2015 made by the Maharashtra Administrative Tribunal (MAT), Mumbai, dismissing the petitioner's Miscellaneous Application No. 344 of 2015 seeking extension of time to implement the MAT's order dated 13 March 2015 made in Original Application No. 860 of 2013.

3] The MAT, by order dated 13 March 2015, had issued the following directions to the petitioner.

“7. Having regard to the aforesaid facts and circumstances of the case, the order dated 4.11.2010 passed by the Respondent no.5 is quashed and set aside. The matter is remanded to the Respondent no.5 to give reasonable opportunity of making a representation against the penalty to the Applicant, if the Respondent no.5 comes to the conclusion that imposition of a penalty is warranted. This may be done within a period of three months from the date of this order. The Original Application is disposed of with no order as to costs.”

4] By Miscellaneous Application No. 344 of 2015, the petitioner applied for extension of further three months, in order to comply with the aforesaid directions. The reasons as to why such extension was being applied for was duly set out in the miscellaneous application. However, the said miscellaneous application has been rejected by the MAT vide impugned order dated 23 July 2015, as a result of which, the respondent upon whom, penalty had been imposed, may be virtually exonerated.

5] Mr. V.B. Thadani, learned AGP for the petitioner-State, has submitted that sufficient cause was indicated in the application seeking extension of time. He has submitted that the penalty imposed upon the respondent was set aside only on basis of technicality. The circumstance that the directions issued by the MAT were not complied with, within three months, is not a ground to virtually exonerate the respondent.

6] Mr. Vivek Salunke, learned counsel for the respondent, has vehemently opposed the grant of any relief in this petition. He has submitted that three months time was granted by the MAT and if the application seeking extension of time is perused, it is quite apparent that no steps were taken by the petitioners within the said period. Besides, he submitted that there is no cause, much less sufficient cause in order to seek any extension of time. Mr. Salunke has submitted that already sufficient time has elapsed and if further extension is granted, then the agony of the respondent will be further prolonged.

7] We have considered the submissions made by the learned counsel for the parties. The MAT, by order dated 13 March 2015 had set aside the order dated 4 November 2010 imposing penalty upon the respondent. This was on the ground that the reasonable opportunity of hearing was not afforded to the respondent, before the penalty was imposed. Accordingly, the matter was remanded so as to furnish reasonable opportunity to the respondent of making representation against the proposed penalty. The authorities were directed to consider such representation and thereafter take a decision within a period of three months.

8] This is not a case where it can be said that there was no sufficient cause for seeking extension of time. In any case, the extension applied for was also not for some unreasonable length of time. There was hardly fifteen days delay in applying for extension.

The impugned order, if sustained, would virtually exonerate the respondent, even before his representation is taken into consideration and the matter is re-examined, in accordance with remand order. This was obviously not scope and import of the order dated 13 March 2015 made by the MAT in the first instance.

9] For all the aforesaid reasons, we set aside the impugned order dated 23 July 2015. We grant the petitioner extension for a period of two months from today, in order to comply with the directions issued by the MAT in its order dated 13 March 2015 in Original Application No. 860 of 2013.

10] In order to compensate the respondent for the prejudice that may have occasioned him on account of some delay, we award costs of Rs.2000/-. Such costs to be paid within a period of four weeks from today.

11] Rule is made absolute to the aforesaid extent with costs as aforesaid.

12] All concerned to act on the basis of authenticated copy of this order.

[M. S. SONAK, J.]

[V. M. KANADE, J.]