

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2381 OF 2015

(Hirabai Eknath Shirsat Vs. The Divisional Commissioner and others)

Mr.Harshal P.Randhir h/f Mr.Vinod P.Patil, Advocate for the petitioner.
Mr.Shailesh S.Chapalgaonkar, Advocate for respondent No.1.
None for respondent No.2, though served.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 11/01/2017

PER COURT :

1. The petitioner is aggrieved by the order dated 12/03/2013 by which the Maharashtra State Consumer Dispute Redressal Commission, Circuit Bench at Aurangabad has dismissed the First appeal preferred by the petitioner in default. Learned Advocate for the petitioner has taken me through the grounds raised in the petition below paragraph No.3 and submits that the dismissal of the appeal has closed the doors of litigation on the petitioner.

2. None appears for respondent No.2, though served.

3. Mr.Chapalgaonkar, learned Advocate for respondent No.1 submits that the impugned order dated 12/03/2013 would indicate that the free certified copy of the impugned order was sent by post to the petitioner on 30/03/2013. The practice of the Commission is to

supply free copies of the orders. Yet, the petitioner in order to cover up the delay caused in filing this petition as well, moved an application for seeking certified copy on 31/10/2014. The copy was supplied on 12/11/2014. This petition has been filed on 05/02/2015 which clearly indicates that the petitioner has no interest in pursuing the proceedings. In the alternative, he submits that if this Court is inclined to restore the First Appeal, heavy costs may be imposed for negligence on the part of the petitioner.

4. Having considered the contentions of the learned Advocates, as are recorded above, it is apparent that the petitioner has been negligent and on account of her laxity, the first appeal was dismissed in default. Even thereafter, the petitioner has preferred this petition after 24 months. Nevertheless, an opportunity to assail the order of the District Disputes Redressal Forum would be lost and the doors of litigation would be closed on the petitioner. The issue involved is with regard to payment of insurance.

5. In the light of the above, in order to ensure that the ends of justice are met, this petition is partly allowed and First Appeal No.A/966/2008 shall stand restored to the file of the State Commission on the following conditions :-

[a] The petitioner shall deposit an amount of Rs.5,000/- before the State Commission at Aurangabad on or before 10/02/2017.

[b] The litigating sides shall appear before the State Commission on 10/02/2017.

[c] Since respondent No.2 has not appeared in this matter, the State Commission would issue notice only to respondent No.2.

(d) The amount directed to be deposited as above shall be transmitted to the Marathwada Consumer Guidance Welfare and Law Practitioner Association in the light of the consent of respondent No.1.

[e] If the costs as directed are not deposited, this order shall stand recalled, this petition shall then stand dismissed and the order of the State Commission dated 12/03/2013 shall stand restored.

(RAVINDRA V. GHUGE, J.)