

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5222 OF 2017
(Rameshswar Co-operative Sugar Factory Ltd., Vs. The Manager and
others)

Mr.H.D.Deshmukh, learned counsel for the petitioner.

(CORAM : M.S.Sanklecha, J.)

DATE : 24/04/2017

PER COURT :

1. This petition challenges the order dated 01/02/2017 passed by the Maharashtra State Consumer Dispute Redressal Commission, Mumbai, Circuit Bench at Aurangabad. By the impugned order, the petitioner's application for condonation of delay of 195 days in filing the complaint was rejected.

2. The petitioner's case is that the Insurance Company/Respondent No.1 rejected their claim for insurance on 04/06/2014. The petitioner sought the survey report, which formed the basis for rejecting the claim of the petitioner. However, the Insurance Company did not furnish the petitioner with the survey report. The time to file an appeal expired on 04/06/2016. Only thereafter on 20/12/2016, the petitioner filed its consumer complaint with the Maharashtra State Consumer Dispute Redressal

Commission, Mumbai, at Aurangabad. This consumer complaint was also filed without any survey report. In the above view, coupled with the lack of any explanation for not filing the complaint earlier without the copy of the complaint report as now being filed, the condonation application was rejected.

3. In the above view, the view taken by the impugned order cannot be said to be perverse or improper exercise of jurisdiction to warrant interference under Article 227 of the Constitution of India.

4. At this stage, Mr.Deshmukh, learned counsel for the petitioner seeks to withdraw this petition with liberty to adopt appellate proceedings, if available under the Consumer Protection Act, 1986. Liberty as prayed for, is granted. The time spent in this Court in prosecuting this petition from 02/03/2017 to 24/04/2017 may be sympathetically considered by the Appellate Authority for condonation of delay, if an appeal is filed by the petitioner.

5. The petition dismissed, as withdrawn, with the aforesaid liberty.

(M.S.Sanklecha, J.)