

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

**6 CIVIL APPLICATION NO. 13175 OF 2016
IN FAST/28684/2016**

THE STATE OF MAHARASHTRA AND ANR .. Applicants

VERSUS

MOHANRAO NANARAO CHINCHOLIKAR .. Respondent

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AGP for Applicants	:	Shri. S.P. Sonpawale
Advocate for Respondents	:	Smt. Vinaya Dharurkar

...

WITH
CA/13176/2016 IN FAST/28684/2016

**CORAM : P.R. BORA, J.
Dated: July 18, 2017**

PER COURT :-

. Delay of 2043 days has occurred in filing the present appeal by the State. It is the contention in the application that, after passing of the impugned Award the concerned AGP scrutinized the Judgment and the other record of the case and sent a proposal seeking approval from the Law and Judiciary department. It is further contended that, thereafter the sanction was to be obtained from the Higher Office and the amount of court fee was also to be procured. Learned AGP submitted that, in making all these compliances the delay has been caused. Learned AGP submitted that, the substantial grounds are raised in challenge to the impugned Judgment and Award and as such the matter needs to be heard on merits. Learned

AGP therefore prayed for condoning the delay.

2. Learned Counsel appearing for the respondent / Original claimants has opposed for condoning the delay stating that, the reasons which are assigned in justification of delay are absolutely untenable and delay cannot be condoned on such grounds. Learned Counsel therefore prayed for rejecting the application.

3. I have carefully perused the contents of the present application. The impugned Judgment was admittedly passed on 28.10.2010. The proposal seeking approval of the Law & Judiciary Department was sent in the year 2011 and the approval was also received in the year 2011. It is further revealed that, court fee amount had also become available on 08.03.2013. However, there is no further explanation as to why then the appeal could not be filed till 14.09.2016. Firstly there is no explanation as to why no steps were taken by the department when the sanction was received in the year 2011 itself. The next question arises as to why the further delay was committed when the Court fee amount was received in the year 2013. It apparently appears that, concerned officers were negligent in dealing with the matter. In absence of any plausible explanation, the request of the applicant cannot be accepted.

4. The Hon'ble Apex Court in the matter of **Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai, reported in 2012 (5) SCC 157**, held that, no premium be given for total lethargy or utter negligence of State officer / machinery / agency / instrumentality and condonation of delay caused by such officer cannot be allowed as a matter of course by accepting the plea that dismissal on the ground of limitation will cause injury to public

interest.

5. In view of the law laid down by the Hon'ble Apex Court in the above Judgment and more particularly having regard to the fact that, there is no sufficient cause shown for huge delay of 2043 days, I am not inclined to allow the present application. Hence the following order.

ORDER

1. The application is rejected.
2. Pending civil application, if any, stands disposed of.

(P.R. BORA, J.)

ggp