

**IN THE HIGH COURT OF BOMBAY AT GOA**

WRIT PETITION NO. 1161 OF 2016

MRS. SEBASTIANO CARDOZA, THR. HER  
POA MR. NAZARETH BARRETO., ... Petitioner  
Versus  
MR. MOHAMED RIZWAN MEMON., ... Respondent

Ms. Maria Coreia, Advocate for the petitioner.

Mr. C. A. Ferreira and Mr. R. Almeida, Advocates for the respondent.

Coram:- C. V. BHADANG, J.

Date:- 23rd January, 2017

P.C.

The petitioner challenges the order dated 02/09/2016, passed by the Administrative Tribunal, refusing to restore the appeal, which has been dismissed for non-prosecution. Normally, this Court would lean in favour of the matter being decided on merits than on technicality and would grant indulgence. However, the facts in the present case does not entitle the petitioner for such relief. The manner in which the appeal has been prosecuted by the petitioner, does not leave any manner of doubt that the attitude has been casual and in spite of sufficient opportunities being granted, adjournments were sought. The various dates, as set out in para 3 of the impugned order, would make it clear that right from the year 2013, the petitioner had either sought adjournment in the appeal or was absent. On 01/12/2015, after

noticing the absence of the petitioner, last and final opportunity was granted and the appeal was fixed on 15/01/2016, on which date, the petitioner sought adjournment. The appeal was, thereafter, fixed on 17/02/2016, 21/03/2016 and 29/04/2016 on account of the adjournment being sought on behalf of the petitioner. On 29/04/2016, a last and final opportunity was granted and the appeal was fixed on 17/06/2016, when again, adjournment was sought by filing an application, which reads as under :

"In the above mentioned matter Advocate appearing for applicant seeks time for argument. Therefore, it is prayed before this Hon'ble Court to kindly adjourn the matter and may fix it to any other convenient day."

On 17/06/2016, the learned Administrative Tribunal dismissed the application for adjournment and consequently, dismissed the appeal for non-prosecution.

2. It can be seen that in spite of several opportunities being granted, an application for adjournment, without any reason, was made, which the Tribunal has rejected and to my mind rightly so.

3. Not only that the petitioner filed an application for restoration, in which, he again remained absent and this was in

spite of the fact that last and final opportunity was granted to collect the notice for service on the respondent on 29/08/2016, which also was not collected.

4. In the circumstances, no case for interference is made out. The petition is hereby dismissed, with no order as to costs.

C. V. BHADANG, J.

SMA