

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 188 OF 2017
IN
REVIEW PETITION NO. 5 OF 2017
IN
LETTERS PATENT APPEAL NO. 179 OF 2009

Smt. Sunita Vijaykumar Gupta ...	Applicant
Matter in Between	
Smt. Sunita Vijaykumar Gupta ...	Petitioner
vs.	
The State of Maharashtra & Ors. ...	Respondents

Mr.Sharad S. Suryawanshi i/b. Shri Ajay G.Khaire for the Applicant.
Shri Manoj A. Patil for the Respondent No.4.
Ms. Kavita Salunke, AGP, for the State.

CORAM: R.M.SAVANT &
SMT.SADHANA S.JADHAV, JJ.
DATE : 26th July 2017.

P.C.

The above Civil Application has been filed seeking condonation of delay of 7 years and 125 days in filing the above Review Petition. The review is sought of the order dated 30.11.2009 passed by a Division Bench of this Court comprising of the then Hon'ble the Chief Justice Shri Swatanter Kumar and the Hon'ble Justice A.M.Khanwilkar (as their Lordships then were). Having regard to the extent of delay, we ventured to consider whether there is any merit in the above Review

Petition. As indicated above, the review is sought of the order dated 30.11.2009 passed in the above L.P.A.No.179 of 2009. The above L.P.A. had arisen out of the order dated 10.12.2007 passed by a learned Single Judge of this Court upholding the allotment of the rationing shop in favour of the Respondent No.4 herein, who was also the Respondent No.4 in the Writ Petition No.5213 of 2007. The Division Bench, whilst dismissing the L.P.A., observed that the competent authority has carried out the comparative study of all the applicants and it was found that the shop of the Applicant was not convenient for transport as well as the card-holders considering the Nala in front of the premises. The Division Bench further observed that accepting the view taken by the authorities, the learned Single Judge dismissed the Writ Petition. The Division Bench observed that the discretion has been exercised by the learned Judge in consonance with the settled principle of law and that the Division Bench did not find any reason to interfere with the same.

2. It seems that after the Division Bench had dismissed the Writ Petition, the Petitioner herein had approached the then Hon'ble Minister for Food, Civil Supplies and Consumer Protection, Government of Maharashtra by way of a Review Petition seeking review of the order dated 18.5.2007 granting allotment of the ration shop in favour of the

Respondent No.4 herein. The said application filed by the Petitioner came to be rejected by the then Hon'ble Minister for Food, Civil Supplies & Consumer Protection on 14.10.2009.

3. It seems that the Petitioner thereafter approached the lowest authority i.e. the Controller of Rationing by way of an application on the ground that he has material to indicate that the Respondent No.4 herein was not eligible and entitled to the allotment of the ration shop. It seems that the Petitioner against the said rejection of his Review Petition has filed a Writ Petition in this Court, being Writ Petition No.1011 of 2010. During the course of the hearing of the said Writ Petition, it was pointed out to the Division Bench that a representation made by the Petitioner on 15.2.2010 is pending before the Controller of Rationing. The Division Bench therefore directed the Controller of Rationing to decide the representation within stipulated time, upon which the Writ Petition was withdrawn. The Deputy Controller of Rationing thereafter considered the said representation and by order dated 1.6.2010 rejected the said representation.

4. The Petitioner thereafter once again approached the Hon'ble Minister of Food, Civil Supplies & Consumer Protection, Government of Maharashtra by way of a Revision Application. The said Revision came to be allowed on 13.10.2011 by the Hon'ble Minister and thereby the order

passed by the Controller of Rationing was set aside as also the allotment made in favour of the Respondent No.4. This resulted in the Respondent.4 filing a Writ Petition,being No.9153 of 2013. The said Writ Petition came to be allowed by a learned Single Judge of this Court (R.G.Ketkar,J.) by order dated 2.5.2017. The gist of the reasoning of the learned Single Judge, whilst allowing the Writ Petition, was that the powers of revision could not have been exercised by the Hon'ble Minister having regard to the antecedent facts. The said order dated 2.5.2017 has admittedly not been challenged by the Petitioner by filing any proceedings.

5. The aforesaid facts have been narrated as the Petitioner is relying upon the time which has elapsed till passing of the order dated 2.5.2017 by the learned Single Judge of this Court in support of her case for condonation of delay. However, it is required to be noted that the Petitioner was the cause for the said proceedings being given rise to, as it is the Petitioner who had initially approached the Hon'ble Minister by way of a Review after the Division Bench had passed the order dated 30.11.2009. Hence, the time-lag taken for disposal of the Writ Petition by order dated 2.5.2017 cannot enure to the benefit of the Petitioner. Admittedly, the Petitioner had not sought review of the order dated 30.11.2009 passed by the Division Bench within the time stipulated for seeking such review.

Merely because there is an observation made in the said order dated 2.5.2017, passed by the learned Single Judge in Writ Petition No.9153 of 2013, that the Petitioner cannot seek review. The delay of 7 years and 125 days cannot be condoned and the time cannot be compressed at the behest of the Petitioner.

6. Even on merits, we do not find any case in favour of the Petitioner. Liberty was granted by the learned Single Judge of this Court by order dated 2.5.2017 as the Petitioner had contended before the learned Single Judge that he has documents to show that the allotment could not have been made in favour of the Respondent No.4 herein. It is in the said context, the learned Single Judge has observed that if the Petitioner has any documents then it is for him to consider filing of a Review in respect of the said order dated 30.11.2009. When we queried the learned Counsel for the Petitioner Mr. Suryawanshi, he once again states that the document is none other than the document on the basis of which the Respondent No.4 has shown the premises wherein he proposed to carry out the business of ration shop. The said document has already been considered by the competent authority whilst making the allotment in favour of the Respondent No.4. The Respondent No.4 is running ration shop at present. No case for review under any of the eventualities mentioned in Order 47

of the C.P.C. is made out. Hence, both on the ground that no sufficient cause has been shown for condonation of the said huge delay of 7 years and 125 days as also on merits, we reject the Civil Application.

7 In view of the rejection of the Civil Application, the Review Petition which suffers from the said huge delay of 7 years and 125 days does not survive and to accordingly stand disposed of. In the event the Petitioner files L.P.A. in respect of the order dated 2.5.2017, needless to state that the same would be considered on its own merits and in accordance with law.

(SMT. SADHANA S.JADHAV, J.)

(R.M.SAVANT,J.)