

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2578 OF 2017

Nashik Municipal Corporation

...Petitioner

vs.

Shri Maruti Govind Rasal & Anr.

...Respondents

Mr.Murlidhar L. Patil for Petitioner.

Mr.Shyam Walve I/b. Swapnil V. Walve for Respondent No.1.

CORAM : PRASANNA B. VARALE, J.

DATE : 27 SEPTEMBER 2017

P.C. :

Heard learned Counsel for the Petitioner and learned Counsel appearing for Respondent No.1, Mr.Shyam Walve.

2 The Petitioner challenges the order dated 24 January 2012 passed by learned Member, Industrial Court, Nashik in Complaint (ULP) No.226/2005. By the said order, the learned Member allowed the complaint partly and prevented the Petitioner Corporation from recovery of the amount.

3 Learned Counsel appearing for Respondent No.1 vehemently opposed the petition on the ground that the petition is filed at a belated stage and there is absolutely no explanation, least any bonafide explanation, for the delay caused in filing the petition. Learned Counsel for the Respondent submitted that the order impugned is passed in the year 2012, Respondent No.1 is retired from service in the year 2013; if the Petitioner was aggrieved by the order passed in the year 2012, the Petitioner being a

statutory body, namely, the Corporation, could have certainly taken immediate steps to challenge the order but for the negligence, no other reason can be assigned for the delay. Learned Counsel, thus, submits that as the ground of unexplained delay goes to the root of matter and as the Petitioner utterly failed to show any bonafide reasons for the inordinate delay, the petition be dismissed on the very count of delay. Learned Counsel in support of his submissions placed heavy reliance on the judgment of this court in the matter of **Shuddhodhan s/o. Dashrath Ganvir vs. Member Industrial Court**¹.

4 On perusal of the material placed on record, I find considerable merit in the submission of learned Counsel appearing for Respondent No.1. Learned Counsel for Respondent No.1 was justified in submitting that except the statement that due to inadvertence and bonafide mistake, there is no reason assigned explaining the delay. It may be useful for our purposes to refer to the observations of this court in somewhat identical circumstances referred to in the judgment of **Shuddhodhan vs. Member Industrial Court**. In the matter of **Shuddhodhan**, it was the petitioner employee, who approached the court at a belated stage, and the court observed thus :

“I do not find any logic in the reason given on affidavit. If ULP complaint No.832/1999 was to be allowed, it was still necessary for petitioners to challenge the adverse judgment dated 20.8.2002 and without having it set aside they could not have obtained any relief against their employer. The challenge needed to be made in reasonable time. If they had decided not to challenge the adverse order in case ULP Complaint No.832/1999 was itself dismissed, then only there was some point in waiting till that adjudication. I, therefore, do not find that the period of about 4 years was spent

¹ 2010 (5) ALLMR 770

in waiting and delay/latches have not been properly explained. Petition therefore needs to be dismissed on this short ground.”

“However, in view of the findings above, that filing of writ petition itself is belated and suffers from delay and latches, though Industrial Court has not considered this evidence, it is not possible for me to give any relief to the complainants in the present facts.”

5 Learned Counsel for Respondent No.1 was justified in placing the reliance on the judgment of this court in the matter of **Shuddhodhan**. The petition, thus, filed at the belated stage and there is no justifiable explanation offered for the delay. The petition is required to be dismissed at the threshold, accordingly petition is dismissed.

(PRASANNA B. VARALE, J.)