

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

WRIT PETITION STAMP NO.27733 OF 2016

**Loknayak Jayprakash Narayan Shetkari
Sahakari Soot Girni Ltd. Kamalnagar
Untawad-Hol, Taluka-Shahada,
District Dhule – 425409**

: Petitioner.

versus

The State of Maharashtra and ors.

: Respondents.

Mr. Saurabh S Kurade for the Petitioner.

Mrs. M S Bane “B” Panel Counsel for the Respondent No.1.

**CORAM : R. M. SAVANT, J.
DATE : 20th February 2017**

P.C.

1 The writ jurisdiction of this Court is invoked against the order dated 27/06/2016 passed by the learned Member of the Maharashtra State Co-operative Appellate Court, Mumbai by which order the application filed by the Respondent No.2 herein for condonation of delay of 359 days in filing the appeal against the judgment and order passed in Dispute No.CC/I/220/2000 dated 10/11/2014 by the Co-operative Court No.1, Mumbai came to be allowed and resultantly the delay of 359 days in filing the Appeal came to be condoned.

2 The said appeal is proposed to be filed by the Respondent No.2 against the Award of the Co-operative Court dated 10/11/2014 by which order the Dispute filed by the Respondent No.2 against the Petitioner herein came to

be dismissed. The reasons as to why the delay has occurred were mentioned by the Respondent No.2 in the Application filed by it for condonation of delay. It is the case of the Respondent No.2 that the papers were handed over to the advocate concerned on 04/03/2015 for preparing the draft of the appeal memo. It seems that the advocate engaged by the Respondent No.2 thereafter returned the papers as a consequence of which the Respondent No.2 had to engage another advocate on 06/10/2015. It is further the case of the Respondent No.2 that thereafter certain time was lost in preparing the draft of the appeal memo and thereafter on account of the fact that the advocate engaged was involved in his personal litigation at Shirala, Dist. Sangli, the Applicant could not take steps to file the appeal immediately. This has resulted in the said delay of 359 days in filing the appeal.

3 The said application for condonation of delay was opposed to on behalf of the Petitioner and the reasons mentioned in the application were questioned.

4 The learned Member of the Maharashtra State Co-operative Appellate Court as indicated herein above, has by the impugned order dated 27/06/2016 allowed the said application for condonation of delay. The reasons mentioned by the applicant in the said application for the cause of delay commended acceptance to the Co-operative Appellate Court. The Co-

operative Appellate Court also adverted to the fact that the Respondent No.2 is a federation and therefore some time may have been lost on account of the procedural delay though that cannot be an excuse for filing the appeal belatedly.

5 In my view, since the Co-operative Appellate Court has deemed it appropriate to exercise discretion in favour of the Respondent No.2, this Court does not find any reason to interfere with the said discretion. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]