

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 5775 OF 2015**

The Manager, Birla Cotsyn India Ltd.

-vs-

Vinayak S/o Sahadeo Tonde and another

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Office notes, Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

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Mr.M.I. Dhatriak, counsel for the petitioner.  
None for the respondents.

**CORAM : SMT. VASANTI A NAIK,J.**

**DATE : 02.02.2017.**

By this writ petition, the petitioner challenges the order of the Commissioner under the Workmen's Compensation Act dated 19/06/2015, allowing an application filed by the respondent No.1 for condonation of delay in filing the application for grant of compensation under the Workmen's Compensation Act.

It is the case of the respondent No.1 that he had suffered permanent disability to the extent of 45%, while in employment. Since the compensation, for the disability suffered by the respondent No.1 was not awarded to him, the respondent No.1 desired to file an application for grant of compensation before the Commissioner under the Workmen's Compensation Act. According to the respondent No.1, he was an illiterate person and, therefore, he was unaware about the niceties of the law and the proceedings. It is stated in the application filed by him for condonation of delay that he had handed over the case papers to his representative, who issued the notice on his behalf on 27/04/2010. It is stated that though his representative had assured him that he would manage everything in respect of the application for grant of compensation, the representative did not contact him and though the respondent No.1 tried to contact the representative, he could not be contacted for some time. It is stated in the application that when the representative was actually contacted by the respondent No.1, the representative informed the respondent No.1 that he had not

filed any proceedings. It is stated in the application that the respondent No.1 is a poor and needy person and as he had fully trusted his representative, Shri Yunus Sheikh, there was a delay in filing the application for grant of compensation. The Commissioner under the Workmen's Compensation Act allowed the application filed by the respondent No.1 for condonation of delay in filing the application. The said order is challenged by the petitioner in the instant petition.

On hearing the learned counsel for the petitioner and on a perusal of the facts stated by the respondent No.1 in the application and referred to herein above, it appears that the Commissioner under the Workmen's Compensation Act had rightly exercised his discretion which allowing the application filed by the respondent No.1 for condonation of delay in filing the application for grant of compensation. The Commissioner believed the case of the respondent No.1, who was illiterate and did not know the niceties of law that he had entrusted the matter to his representative Shri Yunus Sheikh and the said representative had defaulted in filing the proceedings on behalf of the respondent No.1. The Commissioner rightly held that because of the negligence of the representative of the respondent No.1, the respondent No.1 could not have been made to suffer. Moreover, though the respondent No.1 stepped into the witness box and tendered evidence in respect of the cause of delay in filing the proceedings, the petitioner did not tender any evidence. Believing the word of the respondent No.1, the Commissioner under the Workmen's Compensation Act has rightly allowed the application filed by the respondent No.1 for condonation of delay. There is no scope for interference with the just order passed by the authority.

In the result, the writ petition fails and is dismissed with no order as to costs.

**JUDGE**