

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.3725 OF 2016

Anusayabai w/o. Dattaram Maidamwad ..Petitioner

Vs.

The State of Maharashtra and ors. ..Respondents

Mr. S.B.Sontakke, Advocate for petitioner

Mr. S.G.Chapalgaonkar, Advocate for respondent no.5

**CORAM : S.V. GANGAPURWALA AND
R.G. AVACHAT, JJ.**

DATE : OCTOBER 30, 2018

PER COURT

The petitioner had filed a claim under the Shetkari Janata Apghat Vima Yojna ("the Scheme", for short) on account of death of her son. The son of the petitioner died on 05.07.2010 due to fall in the well. The claim of the petitioner has been rejected by the respondent – Insurance Company on the ground that the requisite documents were not submitted with the claim in time.

2. Mr.Sontakke, learned Counsel for the petitioner, submits that at the relevant time, the petitioner was not aware about the requisite documents. Therefore, the documents were not filed with the claim. He submits that the documents including the School extract have been annexed with the present petition.

3. Mr.Chapalgaonkar, learned Counsel for the respondent – Insurance Company, submits that the claim of the petitioner has been rejected on 18.03.2011. The petitioner has filed this Writ Petition in the year 2016 i.e. after a lapse of five years. The same needs to be dismissed on the ground of delay and latches. He submits that necessary documents also were not filed with the claim.

4. We have considered the submissions. The petitioner appears to be a rustic lady, residing in village. It is stated that the petitioner could

collect the requisite documents subsequently and after collecting the documents, the petitioner filed this Writ Petition.

5. The aspect of delay and latches cannot be considered in a strait-jacket formula. It will depend on various factors, the claim filed by the parties, the circumstances prevailing, their conduct and the scheme sought to be taken benefit of. The petitioner is claiming compensation under the beneficial scheme floated by the Government for providing succor to the family of the deceased dying in harness. It appears that the petitioner has filed the claim within the limitation. However, for want of the requisite documents, the same could not be proceeded. The petitioner could not collect the document i.e. School extract of the deceased son in time. It appears that in the present case, FIR has not been registered and A.D.No.40 of 2010 is registered. The petitioner may get a copy of A.D. No.40 of 2010 and submit it along with the claim.

6. Considering the beneficial nature of the scheme, we are inclined to entertain the Writ Petition.

7. The impugned order rejecting the claim of the petitioner for compensation under the scheme, is quashed and set aside. The petitioner shall submit the necessary documents to the Insurance Company within a period of one month from today. Upon receipt of the documents, the respondent – Insurance Company shall decide the claim of the petitioner, on its own merits and preferably, within six months thereafter.

[R.G. AVACHAT, J.]

[S.V. GANGAPURWALA, J.]

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