

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

**CIVIL APPLICATION NO. 7126 OF 2018
IN WP/1308/2009
EKLAVYA MAGAS SEVA SAMITTEE THROUGH PRESIDENT
VERSUS
THE STATE OF MAH AND ANR**

Mr.N.P. Patil-Jamalpurkar, Advocate for the applicant.
Mr.A.S. Shinde, AGP for respondent/State.

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 11.06.2018

P.C. :-

1. Heard Learned Counsel Mr.N.P.Patil-Jamalpurkar for the applicant. The learned Counsel submitted that on 27.03.2018, the Division Bench of this Court was pleased to dismiss the petition for non-prosecution. The learned Counsel submitted by inviting our attention to para No.2 of the application that the Counsel was held up before other Court and was unable to make alternate arrangement to mention the matter before the Division Bench. The learned Counsel then submitted that the absence before the Division Bench was unintentional and for *bona fide* reason. The learned Counsel for the applicant, by inviting our attention to the orders passed by the Division Bench dated 01.12.2009 as well as 14.07.2010, submitted that the petition was admitted by grant of Rule by order dated 14.07.2010, as well as, interim order was

passed in terms of prayer clause (C-1). The learned Counsel then submitted that the petitioner is challenging a circular of the State Government and by way of interim order, the State Government is restrained from giving effect to the circular in the case of the petitioner. As such, the issue raised in the petition requires consideration by this Court.

2. In view of the submissions of learned Counsel Mr. N.P.Patil-Jamalpurkar for the applicant and for the reasons stated in the application, the application is allowed. The petition is restored to its file.

3. Post the petition for hearing in its due course.

4. Needless to state that in view of restoration of the petition, the interim order passed by this Court on 14.07.2010 shall be continued.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE.J.]