

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

929 CIVIL APPLICATION NO. 7709 OF 2018
IN FAST/11026/2018

TARANA SHAIKH WD/O ASIF SHAIKH AND ANR
VERSUS
THE DIV. CONTROLLER (MSRTC) THE DIV. OFFICE
AURANGABAD AND ORS

...

Advocate for Applicants : Mr. Jain Vishwajit R
(Kamboj)

Mrs. Ranjana Reddy, Adv. For Resp.Nos. 1 & 2;

Mr. J M Wagh (Patil) For R/3 To 6

CORAM : P.R.BORA, J.

DATE : 29th August, 2018.

PER COURT :

1) Learned Counsel Smt. Reddy submits that she has instructions to appear on behalf of Respondent Nos. 1 and 2 in the present matter and she will be filing her Vakalatnama in the Registry within a week.

2) Heard learned Counsel appearing for the respective parties.

3) Delay of 614 days has occurred in filing the present appeal by the applicants. Learned Counsel appearing for the applicants submits that

the applicants were not appropriately informed by the counsel, who was appearing for them before the Tribunal, about the decision rendered by the Tribunal. The learned counsel submitted that after becoming aware of the decision, promptly all necessary steps have been taken by the applicants and without loss of any time, the appeal has been preferred. The learned counsel further submitted that the delay caused is unintentional and for bonafide reasons. He, therefore, prayed for condoning the delay.

4) The learned counsel for the applicants has alternatively submitted that the applicants are ready to give up the right of interest for the period of delay in the event of their success in the appeal.

5) Learned Counsel Smt. Reddy opposed for condoning the delay stating that the huge delay of 614 days is not at all sufficiently explained, and as such, the request for condoning the delay is liable to be rejected.

6) Learned Counsel for Respondent Nos. 3 to 6 submitted for passing appropriate orders.

7) After having considered the submissions advanced by the learned counsel for the respective parties, and more particularly, considering the submissions made by the learned counsel appearing for the applicants that the applicants shall not claim the interest of the period of delay in the even of their success in the appeal, I am inclined to allow the present application. Hence, the following order, -

ORDER

i) The delay caused in filing the appeal is condoned. The appeal be registered in accordance with law. After registration of the appeal, issue notice to respondents. Learned Counsel waive service for respective respondents.

ii) It is clarified that the applicants as well as Respondent Nos. 3 to 6, i.e. Original claimants in MACP,

shall not be entitled for the interest of the period of delay in the event of success in the appeal and in case of enhancement in the amount of compensation, on the enhanced amount of compensation.

iii) A copy of the present order be kept along with the papers of the appeal.

iv) The Civil Application stands disposed of.

8. List the matter for further consideration after four weeks.

(P.R.BORA)
JUDGE

bdv/