

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

901 CIVIL APPLICATION NO. 2650 OF 2013
IN RAST/13564/2012

MANGESH PRATAPRAO MORE
VERSUS
THE UNION OF INDIA AND ANR

...
Advocate for Applicant : Mr. D.P. Palodkar h/f. Mr. A.P. Phatale
Advocate for Respondent 2 : Mr. A.P. Bhandari
...

**CORAM : T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**
DATED : January 12, 2018.

ORDER :

. The application is filed for condonation of delay of 123 days caused in filing review application for review of the decision given by this Court in Writ Petition No. 1022/20009. Both the sides are heard.

2) For condonation of delay, the applicant is required to make out that there is sufficient cause and further, the applicant is required to make out that there is some arguable case in the main matter to the applicant.

3) Writ Petition No. 1022/2009 was filed by the present applicant for challenging the order passed by respondent, Petroleum

Company by which the application filed by the present applicant for appointing him as agent of petroleum company to run outlet was rejected. The submissions made and the record show that initially letter of intent was issued, but subsequently, the company found that some information was suppressed by the applicant and on that ground, due to misrepresentation, the company refused to appoint the applicant as agent.

4) The learned counsel for applicant submitted that one case was filed against the applicant under section 138 of Negotiable Instruments Act and one F.I.R. in respect of lottery business was registered against him. He submitted that case filed under section 138 of Negotiable Instruments Act was considered in the past and only after that, letter of intent was issued and so, this circumstance could not have been considered by the petroleum company again.

5) This Court while deciding Writ Petition No. 1022/2009 has considered the aforesaid circumstances and has held that the company was entitled to take such decision. The learned counsel for applicant placed reliance on some observations made by the Apex Court in the case reported as **(2004) 3 Supreme Court Cases 553 [ABL International Ltd. and Anr. Vs. Export Credit Guarantee**

Corporation of India Ltd. and Ors.] and submitted that the Court is not prevented from exercising writ jurisdiction only because the contractual relationship and inquiry in to factual aspect is involved. It is true that the Court has such jurisdiction, but such jurisdiction needs to be exercised sparingly and not ordinarily. Exceptional case is required to be made out by the petitioner for that.

6) Appointment of agent depends upon subjective satisfaction of the employer like petroleum company. This aspect is considered by this Court while dismissing Writ Petition No. 1022/2009. The contentions itself will not be under the scope of review. There is no arguable case made out by the applicant. The contentions made by the applicant for condonation of delay are also not sufficient to make out sufficient cause. This Court holds that it is not possible to condone the delay for aforesaid reasons. The application stands rejected.

[SUNIL K. KOTWAL, J.]

[T.V. NALAWADE, J.]

ssc/