

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

**CIVIL APPLICATION NO. 10016 OF 2017
IN CRAFT NO. 23647 OF 2017**

MATHURABAI DYANOBA GATKAL DIED THROUGH HER L.RS.
RAMKRISHNA DNYANOBA GATKAL
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR,
OSMANABAD AND OTHERS

...
Advocate for the Applicant : Shri A. S. More
AGP for Respondent Nos. 1 and 3 : Shri S. R. Yadav-Lonikar
Advocate for Respondent No. 2 : Shri S. D. Kaldate

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CORAM : RAVINDRA V. GHUGE, J.
DATED : 3rd AUGUST, 2018.
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PER COURT :

1. Leave to correct the designation of respondent No.2.
2. Correction be carried out forthwith.
3. Shri Kaldate, learned Advocate appears on behalf of respondent No.2.
4. I have heard the learned Advocates and the learned AGP on behalf of the respective sides.

5. Issue is as regards the delay of more than 5 years and 6 months (2063 days) caused in filing the CRA.

6. It is revealed from the record that this applicant ignored the proceedings seeking enhancement in compensation in LAR No. 205/1998. As evidence was not led, the concerned Court proceeded to deliver an award dated 22/08/2011 dismissing the said proceedings. This applicant then approached the learned Single Judge of this Court in Writ Petition No. 223/2016. By order dated 21/04/2017, this Court has noted in paragraph Nos. 3 and 4 of its order which reads as under :-

*"3. The Reference U/Sec. 18 of the L. A. Act is dismissed, as the petitioner could not prove that the compensation awarded under the award is inadequate and not fair compensation. The petitioner failed to adduce evidence in the said reference U/Sec.18 of the L. A. Act, as such it cannot be said that the reference is dismissed on technical ground. The judgment of the Apex Court in a case of **State of Tripura and another Vs. Roop Chand Das and others** referred to supra would not inure to the benefit of the petitioner. In view of that, no case for interference is made out. The writ petition is dismissed. No costs.*

4. The petitioner may assail the order dated 22.08.2011 passed in L.A.R. No. 205 of 1998 as may be permissible in law."

7. The learned Advocate for the applicant submits that the applicant has no other remedy except before this Court. He has lost all hope. Subject to imposing costs, the application can be allowed. The applicant makes a statement that in the event the CRA is decided granting some monetary benefits to the applicant, he would not seek interest on the enhanced compensation from 22/08/2011 till the lodging of this proceeding on 03/05/2017. So also, he would be rendered remediless, if the delay is not condoned.

8. Considering the above, though the learned Advocates for the respondents have opposed this application, the same is allowed. The delay of 2063 days is condoned by imposing costs of Rs. 5,000/- (Rs. Five Thousand only). The learned Advocates for the respondents submit that the amount could be donated for the treatment of poor patients.

9. As such, the applicant shall deposit the amount of Rs. 5,000/- (Rs.Five Thousand only) as donation for the Government Medical College and Hospital, Aurangabad, to be deposited with the Medical Officer, High Court Dispensary, Aurangabad, either in cash or by Demand Draft, to be drawn in the name of “Dean, Government Medical College and Hospital, Aurangabad - CSR Fund” and produce a receipt of such deposit, before the Registrar (Judicial) of this Court on or before 24/08/2018. On the condition of depositing the said amount, the CRA shall be registered and will be listed for admission on 29/08/2018 in the Supplementary Board, subject to removal of all office objections.

(RAVINDRA V. GHUGE, J.)

shp/-