

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1717 OF 2018
(Anil Sukhdeo Shinde Vs. The State of Maharashtra and others)

Mr.V.C.Solshe h/f Mr.M.H.Patil, Advocate for the petitioner.
Mr.K.S.Patil, AGP for respondent Nos. 1 to 3.
Mr.C.C.Deshpande, Advocate for respondent No.4.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 01/10/2018

PER COURT :

1. This is a classic example of an open and shut case.
2. The petitioner is aggrieved by the order passed by the S.D.O. Dhule Shri Ganesh Eknath Misal which reads as under :-

"अपिलार्थी यांचे वकिलांचे तोंडी युक्तीवादाने समाधान झाल्याने विलंब माफ
करणेत येत आहे"

Delay is of six months.

3. I have heard the learned Advocates for the respective sides.
4. On 13/02/2018, when notice was issued, this Court had passed the following order after considering the submissions of the learned Advocates for the petitioner and the learned AGP :-

“1 The Petitioner is aggrieved by the single line order dated 20.09.2017 passed by Respondent No.2/ Sub Divisional Officer, Dhule.

2 The contention is that the appeal has been filed by Respondent No.4 before Respondent No.2, which is termed as Peek Pahani Appeal No.101/2017 (Crop Inspection Appeal). An application for condonation of delay of about 153 days was filed under the signature of the Advocate, but without the signature of the Appellant and without an affidavit in support thereof. The said appeal was filed on 20.09.2017 for challenging the order of the Tahasildar dated 19.01.2017. Respondent No.2 without even issuing a notice to the Petitioner, on 20.09.2017, which is the date on which the appeal was presented, has passed a single sentence order concluding that he is convinced that the delay should be condoned.

3 Issue notice to the Respondents returnable on 28.03.2018. The learned AGP waives service for Respondent Nos.1, 2 and 3.

4 Copies of the petition paper book for issuance of notices shall be supplied on or before 22.02.2018, failing which, this petition shall stand dismissed without reference to the Court on 23.02.2018.

5 Until the returnable date in this matter, the impugned order dated 20.09.2017 and the Appeal registered as Peek Pahani Appeal No.101/2017 shall stand stayed.”

5. In my view, the S.D.O. Shri Misal needs to undergo an

orientation programme as to how an order is to be written and how reasons are to be assigned for the conclusion drawn by the said Authority. The impugned order indicates that Shri Misal was convinced that the delay of 6 months deserves to be condoned. Neither was the petitioner heard nor has Shri Misal assigned reasons. The type of the order that he has passed cannot survive the test of judicial scrutiny.

6. This petition is, therefore, allowed. The impugned order dated 20/09/2017 is quashed and set aside. The application for condonation of delay in *Peek Pahani Appeal* (पिक पाहणी अपिल नं.) 101/2017 is restored to the file of the S.D.O. Dhule.

7. The litigating sides shall appear before the said Authority / respondent No.2 on 15/10/2018. The petitioner shall file his written statement opposing the application for condonation of delay on the same date of appearance. Thereafter, the S.D.O. shall hear the contentions of the litigating sides and shall pass a reasoned order on the application for condonation of delay.

**Kranti
Hansraj
Shekatkar**

Digitally signed by
Krant Hansraj
Shekatkar
Date: 2018.10.03
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(Ravindra V.Ghugre, J.)