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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (STAMP) NO.6441 OF 2018

Paraharam H. Bhoi	...Petitioner
V/s.	
State of Maharashtra & Ors.	...Respondents

Mr.Shailesh D. Chavan for the Petitioner.

Mr.S.D. Rayrikar, A.G.P. for the State – Respondent Nos.1 to 3.

Mr.Nayeem Meersaheb Sayed, Gramsevak – Respondent No.5
present in person.

CORAM : R.D. DHANUKA, J.
DATE : 13TH MARCH, 2018.

P.C. :-

1. Learned counsel appearing for the petitioner states that the respondent nos.4 and 5 are served and tenders affidavit of service. Mr.Rayrikar, learned A.G.P. for the respondent nos.1 to 3 waives service. None appears for the respondent no.4. No affidavit in reply is filed.

2. By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 2nd February, 2018 passed by the respondent no.3 dismissing the appeal challenging the order passed by the learned Collector, Nashik on the ground that

there is delay one one day in filing the said application.

3. A perusal of paragraph 1 of the impugned order itself indicates that the impugned order passed by the Additional Collector was passed on 27th December, 2017 and thereafter was served upon the petitioner. Learned Additional Commissioner appears to have considered the date of passing the order dated 27th December, 2017 also while computing the period of limitation. In my view, there was no delay in filing the appeal by the petitioner. The impugned order passed by the Additional Commissioner is thus erroneous and thus deserves to be set aside.

4. I therefore, pass the following order :-

a). The impugned order dated 2nd February, 2018 passed by the learned Additional Commissioner at Exhibit "E" to the petition is set aside.

b). Appeal No.07 of 2018 is restored to file before the learned Additional Commissioner, Nashik Division, Nashik.

c). Learned Additional Commissioner shall decide the said appeal without being influenced by the observations made and the conclusion drawn in the impugned order dated 2nd February, 2018. The Additional Commissioner shall decide the said appeal within eight weeks from the date of the first meeting.

d) The petitioner is directed to remain present before the

learned Additional Commissioner, Nashik on 22nd March, 2018 at 3:00 p.m. without fail. The petitioner is directed to convey this order to the Additional Commissioner for compliance.

5. The writ petition is allowed in aforesaid terms. No order as to costs.

6. All the parties to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)