

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION (ST) NO. 6934 OF 2018
IN
REVIEW PETITION (ST) NO. 6930 OF 2018
IN
WRIT PETITION NO. 3906 OF 2003**

Union of India
through The Director
Government of India and anr.

...Applicants/
Org. Petitioners

IN THE MATTER BETWEEN

Union of India through the
Director, Government of India
and anr.

.. Org. Petitioners

Versus

Ramchandra B. Shinde
(since deceased through his
Legal Heirs and ors.) and ors.

.. Respondents.

Mrs Neeta V. Masurkar a/w. Ms Nieyati Masurkar for the
Petitioners in RPWST 6930/2017 and for the Applicants in
CAWST-6934/2018.

Mr. D.A. Dube a/w. Mr. Suresh Kumar for the Petitioners in
WP 3906 of 2013.

**CORAM : SMT. V. K. TAHILRAMANI, Acting C.J. &
M. S. SONAK, J.**

DATE : 26.06.2018.

P.C.

1] Not on board. At the request of learned counsel, Civil
Application (St) No. 6934 of 2018 is taken on board.

2] Heard Ms Neeta Masurkar, learned counsel for the applicants/petitioners.

2] By this civil application, the applicants seek condonation of delay of 602 days in filing the review petition to review the order dated 6.06.2016, by which, Writ Petition No. 3906 of 2003 came to be dismissed.

3] The so called reasons furnished in support of the application for condonation of delay of over 600 days in instituting the review petition are set out in paragraphs 9 and 10 of the civil application. The reasons are entirely vague and therefore, do not constitute any sufficient cause.

4] In the two paragraphs, all that is stated is that after the order dated 6.06.2016 was obtained from the website, the matter was examined, legal opinion of the counsel was obtained , the matter was referred to Ministry of Law and Justice for advise and the Ministry advised filing of review petition. Thereafter, in paragraph 10, it is stated that some time was spent to draft the actual review petition.

5] In the application, absolutely nothing is stated as to when the copy of the order was obtained from the website. This is not a case where the review petitioners were unaware of the order. This is because Mr.Suresh Kumar along with Mr. D.A. Dube had appeared for Union of India- review petitioners when the order dated 6.06.2016 was made. Similarly, Ms Neeta Masurkar, who now appears for the petitioners- Union of India, had in fact appeared for respondent No.2, which was supporting the Union of India in Writ Petition no. 3906 of 2003. Inadvertently, in the appearance column, there is a line which states that none appears on behalf of the petitioners. However, immediately thereafter, appearance of Mr. Suresh Kumar, learned counsel for the petitioners and Ms Neeta Masurkar, learned counsel for respondent No.2 is clearly indicated in the cause title. There is also no dispute that the two counsels did appear on the date of the order dated 6.06.2016 was made.

6] Again, there are absolutely no details as to when the files were processed for securing legal opinion and when the final go ahead was given for institution of the review petition. In any case, merely stating that some time was

spent for movement of files is not at all sufficient cause to explain delay of over 600 days in instituting the review petition.

7] From the submissions made before us, it appears that the review petition has been instituted in response to the contempt petition instituted by the respondent before the Central Administrative Tribunal (CAT). The institution of contempt petition was necessary because the petitioners refused to implement the directions of the CAT in its judgment and order dated 20.03.2003, even though, the challenge against the said judgment and order failed on 6.06.2016. Thus construed, it cannot be said that the vague and unverifiable reasons stated in the application seeking condonation of delay are *bonafide*.

8] In ***Union of India and ors. vs. Visveswaraya Iron and Steel Ltd. - 2006 (4) Mh.L.J. 318***, the Hon'ble Supreme Court declined to condone the delay of almost **one year** after the receipt of the copy of the judgment. The explanation that delay was on account of the file having moved through various departments was rejected as not

constituting sufficient cause.

9] In ***Registrar of Companies Vs. Rajshree Sugar & Chemicals Ltd. and ors. - (2000) 6 SCC 133***, the Hon'ble Supreme court has held that though some latitude has to be shown to the Government in deciding the question of delay, that does not give a licence to the officers of the Government to shirk their responsibility to act with reasonable expedition.

10] In ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and ors. (2013) 12 SCC 649***, the Hon'ble Supreme Court has held that an application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system. An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective. The increasing tendency to perceive delay as a non-serious matter and,

hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.

11] In ***Postmaster General and ors vs. Living Media India Limited and anr - (2012) 3 SCC 563***, the Hon'ble Supreme Court declined to condone the delay of **427 days**, which was sought to be justified on the ground that the Government or the departments of the Government are impersonal entities and therefore, delay on their behalf has to be routinely condoned. In paragraphs 28 and 29, the Hon'ble Supreme Court has observed thus:

“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for

several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

12] In the present case, apart from the fact that the delay is of over 600 days, there is virtually no explanation offered for such inordinate delay except for the routine averement that advise was sought from the counsel and thereafter the Ministry. The petitioners/applicants have not even bothered to state the dates on which the files were moved, which by itself may not have constituted any sufficient cause. The application as filed, does not meet with the requirements set out by the Hon'ble Supreme Court in *Esha Bhattacharjee (supra)*. As noted earlier, even bona fides are lacking since, on the basis of this review application, the applicants resist implementation of the CAT's order made way back in the year 2003.

13] Upon cumulative consideration of all the aforesaid circumstances, we dismiss the application for condonation of delay in review petition.

14] Since, the application for condonation for delay is dismissed, the review petition does not survive and the same is also dismissed.

(M.S. SONAK, J.)

(ACTING CHIEF JUSTICE)