

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

**CIVIL APPLICATION NO.3758 OF 2019
IN SAST/4842/2019**

MUNICIPAL CORPORATION PARBHANI THROUGH ITS
DEPUTY COMMISSIONER VIDYA GAIKWAD
VERSUS
KAUSALYABAI UTTAMRAO SHINDE

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Mr.A.P. Kothari holding for Mr.S.S. Bora,
Advocate for applicant
Mr.G.R. Syed, Advocate for respondent.

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CORAM: V.L. ACHLIYA,J.
DATE : 04.07.2019

ORAL ORDER:

The applicant-appellant has filed this application seeking condonation of 76 days delay in filing appeal.

2. Heard learned counsel for the applicant and the respondent.

3. In brief, it is the contention of learned counsel for the applicant that the delay caused in filing appeal was occurred mainly due to time spent in securing the legal opinion and thereafter to collect the documents for filing appeal. It is submitted that delay caused in filing appeal was not

deliberate and intentional. The applicant/appellant has good case to succeed in appeal. It is submitted that in case the delay is not condoned, there is every likelihood that a meritorious matter will get rejected for technical reason.

4. On the other hand, learned counsel for the respondent strongly opposed the application with contention that the cause assigned for condoning the delay cannot be treated as sufficient cause within the meaning of Section 5 of the Limitation Act to condone the delay. It is submitted that the reasons assigned are false and concocted. It is further submitted that the appeal filed by the applicant is devoid of merit.

5. Considering the submissions advanced in the light of reasons assigned to condone the delay, which remains uncontraverted and unchallenged, and the broad principles laid down by the Apex Court in the case of *Esha Bhattarjee v. Managing Committee of Raghunathpur Nafar Academy & others* reported in **(2013) 12 SCC 649**, I am of the view that the delay deserves to be condoned. In case

the delay is condoned, no serious prejudice would be caused to the respondent. Accordingly, the application is allowed. The delay condoned. Appeal be registered. Office objections be removed within three weeks from registration of appeal.

6. List appeal for admission on 1st August, 2019.

7. Mr.G.R. Syed, learned counsel waives notice before admission for respondent.

[V.L. ACHLIYA]
JUDGE

SGA