

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

919 **CIVIL APPLICATION NO.6449 OF 2014**
IN SAST/14109/2014

THE ZILLA PARISHAD, AHMEDNAGAR
VERSUS
ASHOK BABURAO SALUNKE

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Mr.S.T. Shelke, Advocate for the applicant
Mr. V.R. Langhe, Advocate for respondent.

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CORAM: V.L. ACHLIYA, J.
DATE : 26.07.2019

ORAL ORDER:

The appellant/applicant moved this application for condonation of 187 days delay in filing appeal for the reasons set out in the application.

2. Heard learned counsel for appellant/applicant and respondent.

3. In brief, it is the contention of learned counsel for the applicant that the delay caused in filing appeal was not intentional and deliberate. It is submitted that the applicant is a statutory body. In the process of taking decision to challenge the judgment and decree passed by the Courts below, considerable time was spent. After securing the necessary clearance from the various departments including the Public

Works Department and General Administration Department, the appeal was presented. In the process, the delay of 187 days occurred in filing the appeal. It is further submitted that the appellant/applicant has good case to succeed on merit. In case, if the delay is not condoned, there is every likelihood that the meritorious matter may be rejected for technical reason.

4. Learned counsel for the respondent opposed the application with contention that the cause shown for condonation of delay cannot be treated as sufficient to condone the delay. No distinction can be made between private individual and statutory body or the Government institution. It is further submitted that in order to condone the delay, the cause must be sufficient cause within the meaning of Section 5 of the Limitation Act.

5. On due consideration of submissions advanced in the light of overall facts of the case, the reasons assigned for condonation of delay, consequences to follow if the delay is not condoned, I am of the view, the delay deserves to be condoned. If the delay is

condoned, no serious prejudice would cause to the respondent as ultimately the case is decided on merit. On the contrary, if the delay is not condoned, there is every likelihood that the meritorious matter may be rejected for technical reason. Keeping in view 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, the delay deserves to be condoned. Accordingly, the application is allowed in terms of prayer clause "A", subject to cost of Rs.5,000/- to be deposited by the applicant within four weeks from today. The delay condoned.

6. On deposit of cost, the respondent will be at liberty to withdraw the same. Appeal be registered subject to removal of office objection.

7. The application is disposed of in above terms.

[V.L. ACHLIYA]
JUDGE