



This order is corrected vide speaking to the minutes order dated 11.3.2025

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

**918 CIVIL APPLICATION NO. 7435 OF 2024
IN CA/11842/2019
AND
CIVIL APPLICATION NO.11842 OF 2019 IN WRIT
PETITION NO.5452 OF 1999
WITH
WP 5452 OF 1999**

Social And Cultural Association Through It's President And
Another

VERSUS

Maroti Pandurang Jambhale And Others

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Advocate for Applicant : Mr. Y B Bolkar h/f A.D. Khot

AGP for Respondents : Mr. V M Jaware

Advocate for Respondent 1 : Mr. R. J. Godbole

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 26, 2024

PER COURT :-

1. By way of civil application no.7435 of 2024, the applicants seeks to recall the order dated 22.11.2019 passed by this Court in Civil Application No.11842 of 2019 and restore the same to it's original file. The applicant also seeks to condone the delay of 1626 days caused in filing the application. The applicant had filed civil application No.11842 of 2019 in WP 5452 of 1999 to recall the order dated 4.4.2019 and restore the writ petition to its original

position, which has been dismissed for want of prosecution.

2. Mr. Bolkar, learned advocate appearing for the applicants submits that, this Court was pleased to dismiss the writ petition no.5452 of 1999 for want of prosecution noting consecutive absence of the advocate appearing for the petitioners. Thereafter, the applicant had filed civil application no.11842 of 2019 seeking restoration of the writ petition. This Court vide order dated 22.11.2019 was pleased to pass a conditional order directing removal of office objections in the civil application. However, said order was inadvertently missed from attention of the Advocate. Consequently, civil application no.11842 of 2019 also suffered dismissal for non-removal of office objections.

3. After getting knowledge of dismissal of the civil application no.11842 of 2019, present application is filed for restoration with prayer to condone delay of 1626 days. Mr. Bolkar, learned counsel would submit that although there is delay of 1626 days that is not intentional and needs to be condoned so that parties are given fair opportunity to argue the matter on merits.

4. Per contra, Mr. Godbole, learned advocate appearing for the respondents/employee vehemently opposed the prayer. He would submit that twice writ

petition suffered dismissal for want of prosecution. The respondents/employees are litigating for their valuable rights since the year 1999, however, because of ignorance or negligence on the part of the applicants, matter could not be proceeded on merit. He would submit that there is inordinate delay of 5 years in filing this application. Employees have already attained the age of superannuation and it is difficult to compensate the losses already suffered by them.

5. Having considered the submissions advanced, it is apparent that writ petition is pending since 1999 and substantive rights of the parties are involved. It is apparent from the record that applicants are not serious in prosecuting the writ petition and persistently making defaults in conduct of the proceeding. Previously, writ petition was placed for final hearing in the year 2018. After noting consistent default on the part of the applicants, writ petition was dismissed vide order dated 4.4.2019. Thereafter, civil application no.11842 of 2019 was filed for restoration within a period of 48 days. Office had raised certain objections in that civil application. However, those objections were not removed within the prescribed time. All these circumstances suggests gross negligence on the part of the applicants. However, fact remains that matter requires adjudication on merit. Hence, it would be in the interest of justice that main writ

petition is heard on merits and the loss which is caused to employees be compensated by adequate costs.

6. Mr. Bolkar, learned counsel appearing for the applicants, on instructions, submits that applicants are willing to pay costs of Rs.50,000/- (Rs. Fifty Thousand) to the **non-applicant no.1**.

7. Accepting his statement, civil application no.7435 of 2024 is allowed in terms of prayer clauses 'B' and 'C' , on the condition that applicants deposits costs of Rs.50,000/- (Rs. Fifty Thousand), in this Court within a period of (3) three weeks from today.

8. On deposit of such costs, it be disbursed to **respondent no.1**. Consequently, civil application nos.11842 of 2019 in WP 5452/1999 is also allowed subject to condition that applicants remove all office objections within a period of (2) two weeks from today.

9. Place the writ petition under the caption of "Final Hearing" on 5th September, 2024.

(S. G. CHAPALGAONKAR)
JUDGE

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