

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

WRIT PETITION NO.11071 OF 2019

LAXMAN KRASHNA GATKUL
VERSUS
CHANDRAKANT GOVIND PAWAR AND OTHERS

...
Advocate for the Petitioner : Shri More Abhijit S.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 06th September, 2019

Per Court:

1 The petitioner/ original respondent no.2 in Miscellaneous Application (RJE) No.171/2013 before the Commissioner under the Employees' Compensation Act is aggrieved by the order dated 13.06.2019 by which, the delay caused in filing the claim for compensation has been condoned.

2 The learned advocate for the petitioner has strenuously criticized the impugned order to the extent of the aspect that the applicants had initially filed WCA No.414/2005 at Mahad in Raigad district under the same Act and the said proceeding was withdrawn unconditionally. Thereafter, the proceedings were initiated for seeking compensation under the same Act before the court at Osmanabad. He draws my attention to the grounds formulated in the memo of the petition

and submits that though the petitioner may not oppose the condonation of delay, however, the compensation court will have to consider whether, the the compensation proceeding filed at Osmanabad would be rendered untenable in view of the identical compensation proceeding filed at Mahad in Raigad district, which has been unconditionally withdrawn.

3 I find that the issue of maintainability of the compensation proceeding at Osmanabad would be a matter involving a mixed question of facts and law. The concerned court has dealt with the application for condonation of delay and it does not appear from the conclusions drawn in paragraphs 16 and 17 that the compensation court has rejected the issue raised by this petitioner.

4 In view of the above, this writ petition is disposed off.

5 In the event, the petitioner raises the above stated objection in his written say to the claim application, the learned court at Osmanabad would consider the same on it's own merits.