

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13430 OF 2019

Sanjay S/o Ragunath Koli
Age : 40 years, Occu. : Agri &
Police Patil, R/o At Post
Mamalde, Village Krushnapur,
Tq. Chopda, District Jalgaon

... Petitioner

Versus

1] The State of Maharashtra
Through its Secretary,
Home Department,
Government of Maharashtra,
Mantralaya, Mumbai – 32.

2] The Sub Divisional Officer,
Amalner, District Jalgaon,
Jalgaon

... Respondents

...
Mr. Sunil B. Jadhav, Advocate for petitioner
Mr. A.V. Deshmukh, AGP for respondent - State
...

CORAM : SUNIL P. DESHMUKH &
SMT. VIBHA KANKANWADI, JJ.

DATE : 04-12-2019

ORAL JUDGMENT (PER – SUNIL P. DESHMUKH, J.) :

1. Rule. Rule made returnable forthwith. Heard learned counsel for appearing parties finally, by consent.

2. The petitioner is before this court against order dated 24-07-2019 passed by maharashtra administrative tribunal, Mumbai

bench at Aurangabad in miscellaneous application no. 460 of 2018 in original application (st.) no. 1934 of 2018 whereunder, delay has been refused to be condoned by the tribunal.

3. After hearing learned counsel for parties and on perusal of order impugned in present writ petition, it appears that petitioner had been suffering ailment for which he had been undergoing treatment. Documents in this respect of 2014 and about some treatment in 2018 have been produced *albeit* no documents in particular are produced with respect to the treatment after 08-04-2018. The tribunal appears to have considered, after impugned order in original application had been passed for over one year, there is no document of continual treatment and also about treatment after 08-04-2018.

4. It may be required to be taken into account that the limitation period under the Administrative Tribunals Act, 1985 is of one year and it appears that till 08-04-2018, petitioner has documents about being treated at Mumbai. It is the contention on behalf of petitioner that even thereafter he was required to be treated. Learned counsel for petitioner purports to rely on a medical certificate issued by Dr. Pankaj G. Gujar in September, 2018, referring to that intermittently petitioner was being treated.

5. In the circumstances, having regard to position that generally courts eschew pedantic approach and matters of delay condonation ordinarily are construed liberally since cause may not be lost on account of delay. Taking into account that ailment being suffered by petitioner being not seriously disputed and guidelines of the supreme court in the case of *Collector, Land Acquisition, Anantnag V/s. Mst. Katiji and others* reported in *AIR 1987 SC 1353*, and *Esha Bhattacharjee V/s. Managing Committee of Raghunathpur Nafar Academy and others* reported in *(2013) 12 Supreme Court Cases 649*, would be appropriate to be taken into consideration. In the circumstances, we deem it appropriate that contest on merit may be allowed while the petitioner purports to contend that he has a strong case on merit.

6. As such, miscellaneous application no. 460 of 2018 is allowed, setting aside impugned order dated 24-07-2019 passed in miscellaneous application no. 460 of 2018, subject to payment of costs of Rs.10,000/- (Rs. Ten Thousand). Costs to be deposited before the tribunal within a period of four (4) weeks.

7. Writ petition is disposed of. Rule is made absolute accordingly.

[SMT. VIBHA KANKANWADI]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/