

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CIVIL APPLICATION NO.13280 OF 2019
IN RAST/32190/2019

THE STATE OF MAHARASHTRA THROUGH SECRETARY AND ANOTHER
VERSUS
PHYSICALLY HANDICAPED AND LEPROSY SUFFERER
INDEPENDENCE TRUST AND OTHERS

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Advocate for Applicants : Mr. S. V. Adwant.

AGP for Respondent/State: Mrs. V. S. Choudhari.

Advocate for Respondent Nos.1 & 2 : Mr. V. D. Salunke.

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CORAM : **T. V. NALAWADE &
S. M. GAVHANE, JJ.**

DATE : 29th November, 2019.

ORDER: (Per T. V. Nalawade, J.)

. The application is filed for condonation of delay caused in filing the review application in respect of order made by this Court on 4th March, 2013 in Writ Petition No.6810 of 2012. When the order was made by this Court on 4th March, 2013, the present proceeding came to be filed on 30th September, 2019. Thus, delay of more than six years is caused in filing the review application. Submission was made that the Applicants did not approach Apex Court for filing SLP. The learned counsel for Applicants was asked to show that there is some arguable case for review.

2 The submissions made show that the Respondents, original Petitioners have filed the proceeding for taking action of contempt of court on the basis of decision of Writ Petition No.6810 of 2012 against the present Applicants and due to that proceeding, the present Applicants want review of the order made by this Court on 4th March, 2013.

3 In Writ Petition No.6810 of 2012, following reliefs were claimed:

- “A) The record and proceedings of the case may kindly be called for.
- B) To issue writ of mandamus or any other appropriate writ, order or directions in the like nature to direct respondent authorities to sanction the remaining staff of 7 persons which is not sanctioned as per Physically Handicapped School Code and directions issued by Minister in appeal.
- C) To issue writ of mandamus or any other appropriate writ order or directions the respondents may kindly be directed to make payment of the staff appointed by the petitioner as per requirement of physically handicapped school for 40 students since there appointment.

- D) Pending the hearing and final disposal of this writ petition the respondents may be directed to grant and sanction approval of the staff appointed in the petitioners school as per Handicapped School Code and pay salary to them as per Rules.
- E) Pending the hearing and final disposal of this writ petition to direct respondent authorities to sanction the remaining staff which is not sanctioned as per Physically Handicapped School Code and the salaries there of.
- F) Ad-interim relief in terms of prayer clause "C" may kindly be granted.
- G) Any other just and equitable relief to which the Petitioners found entitled be granted."

4 After hearing both the sides, this Court gave some direction and the relevant observations and direction were as under:

"6. In this view of the matter, respondents shall reconsider the proposal tendered by the petitioner institution for according approval to the appointments of members of the staff considering the intake capacity of petitioner institution as 40 disabled students.

7. The petition is, thus, disposed of by directing the respondents to consider the proposal tendered by the petitioner for according approval to the appointments of the members of the staff, taking into consideration the intake capacity of the petitioner institution as 40 disabled students, as expeditiously as possible preferably within two months from today.”

5 The aforesaid order made by this Court shows that only direction was given to consider the claim of the Petitioners of Writ Petition No.6810 of 2012. It is surprising that for about six years the claim was not considered and when contempt proceeding came to be filed, the present proceeding came to be filed. Huge delay is caused and for filing proceeding in Apex Court also, it would have become necessary for the present Applicants to explain the delay caused. The contents of application show that there is no plausible explanation about the delay. Further, in view of the order made by this Court, it cannot be said that the order could not have been complied with for any reason. Only the matter, claim was to be considered and decision was to be taken. The contentions of the application show that the Applicants could have taken the decision on the basis of record already available with them. It is contended that due to inadvertence and error committed, the matter could not be addressed.

6 The learned counsel for Applicants placed reliance on some observations made by the Apex Court in *Review Petition (Cri.) No.46 of 2019 in Writ Petition (Cri.) No.298 of 2018*, (*Yashwant Sinha & ors Vs. Central Bureau of Investigation through its Director & Anr.*). The facts and circumstances of each and every case are always different. In view of the facts quoted above, this Court holds that it is nothing but the delaying tactics, which is played by the present Applicants and even *mala-fides* can be attributed to the approach and conduct of the Applicants. This Court holds that no sufficient cause is shown and there is no arguable case in review application also. In the result, the application stands dismissed.

[S. M. GAVHANE, J.]

[T. V. NALAWADE, J.]

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