

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13688 OF 2019

SANDIP DIGAMBARRAO CHAVAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. T.V. Bedre, Advocate h/f. Mr. B.S. Chondhekar, Advocate for
petitioner
Mr. G.O. Wattamwar, AGP for respondent - State
...

CORAM : SUNIL P. DESHMUKH &
SMT. VIBHA KANKANWADI, JJ.
DATE : 13-11-2019

ORDER :

1. Heard learned counsel for appearing parties.
2. The tribunal under impugned order dated 10-01-2019 passed in miscellaneous application no. 515 of 2018, has observed as under,

“ 3. On perusal of the record, it reveals that on 18.09.2008, the applicant has filed the O.A. No. 631/2008 seeking directions against the respondents to insert his name in place of his mother in the waiting list of the eligible candidates to be appointed on compassionate ground. There was office objection, but the applicant has not removed the office objection. Therefore, the O.A. came to be dismissed on 01.12.2008. Thereafter, the applicant had moved the M.A. No. 368/2010 for restoration of the O.A. No. 631/2008 by setting aside the order of dismissal of O.A. dated 01.12.2008 without filing the application for condonation of delay. The same was also dismissed in default on 29.10.2010. Thereafter, the applicant had moved M.A. No. 409/2010 for setting aside the order passed by this Tribunal in M.A. No. 368/2010 in O.A. No. 631/2018 on 29.10.2010. The said M.A. was also dismissed on 09.10.2014 for want of prosecution. Thereafter, the applicant has filed M.A. St. No. 3003/2018 for restoration of M.A. No. 409/2010 in

M.A. No. 368/2010 in O.A. No. 631/2018, which was dismissed on 09.10.2014 along with the present M.A. No. 515/2018 for condonation of delay caused for filing the application for restoration. There was delay of more than 4 years.

4. The record shows that the applicant was negligent in prosecuting the entire proceedings. The O.A. No. 631/2018 came to be dismissed on 01.12.2008. Thereafter several applications for restoration of O.A. and M.A. had been filed by the applicant, but the same came to be dismissed on account of the lapses on the part of the applicant. This fact shows that the applicant is negligent in conducting the matter. The applicant is abusing the process of law and therefore, in my view, the present M.A. cannot be allowed. Moreover, no sufficient and just ground has been shown by the applicant for condonation of inordinate delay caused in filing the application for restoration. Hence, the delay cannot be condoned. Consequently, the present M.A. deserves to be dismissed. ”

and, thus, had dismissed the Miscellaneous Application.

3. Learned counsel Mr. Bedre holding for Advocate Mr. Chondhekar for petitioner tries to entreat this court to indulge into the request being made as a last chance and submits that since request for replacement by petitioner in place of his mother has not been responded to, the present litigation had ensued while the petitioner became major. Though that is so, there is no plausible explanation coming forth for the lapses occurring in prosecution of the matters one after the other.

. As observed by the tribunal as quoted above, the same grounds which were taken in the miscellaneous application, are taken in the present writ petition. There is no explanation coming forth as to the lapse of four years after dismissal of miscellaneous application no. 368 of 2010 on 09-10-2014. Apart from aforesaid, there is no explanation offered as to why while the impugned order is passed in

January, 2019, a belated approach is being made to this court in writ petition.

4. In the circumstances, it is a gross case wherein indulgence as sought is difficult to be given any accession. Writ petition, therefore, is not being entertained and is rejected.

[SMT. VIBHA KANKANWADI]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/