

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

**909 CIVIL APPLICATION NO.15037 OF 2017
IN CRAFT/35953/2017**

NISAR AHMAD NASIRUDDIN
VERSUS
ZILLA PARISHAD PARBHANI, THROUGH ITS CHIEF EXECUTIVE
OFFICER, ZILLA PARISHAD, PARBHANI

...
Advocate for Applicant : Shri S.V. Chandole
Advocate for Respondent : Shri R.T. Nagargoje

...
CORAM : P.R.BORA, J.
DATE: 12th June, 2019

PER COURT:-

1. Heard the learned Counsel for the parties. Delay of 406 days has occurred in filing the Civil Revision Application by the present applicant. It is the contention of the applicant that since the order passed by the learned District Judge was not communicated by the Counsel, who was representing him, he could not file Civil Revision Application before this Court within time.

2. The learned Counsel submitted that the learned District Judge, though has observed that there are no sufficient reasons, has condoned the delay caused in filing the Appeal only on the ground that the public money is involved in the matter. In the circumstances, it is prayed that the delay caused in filing Civil

Revision Application be condoned and it be heard on merits.

3. The learned Counsel appearing for the respondent has opposed for condoning the delay.

4. Since there is no contrary evidence on record, believing that the order passed by the learned District Judge was not communicated to the present applicant immediately by the learned counsel, who was representing him, I deem it appropriate to condone the delay and call upon the learned Counsel for the applicant to immediately make his submissions on the merits of Civil Revision Application so as to enable this Court to take decision whether to issue notice or to summarily dismiss the application, if no merit is found in the submissions so made. Civil Application No.15037 of 2017, is therefore allowed. Delay caused in filing the Civil Revision Application is condoned. Civil Revision Application be registered.

5. Heard the learned Counsel on Civil Revision Application. It is the contention of the learned Counsel for the applicant that the District Judge though has observed in the order that there are no sufficient reasons for condoning the delay, only because the public money is involved, the application has been allowed and

huge delay has been condoned by the District Judge. According to the learned Counsel, in absence of any sufficient reason made out for condoning the delay, the learned District Judge could not have condoned the delay occurred in filing the Appeal by the Zilla Parishad.

6. I have carefully gone through the order passed by the District Judge. The District Judge in many words has observed what steps were taken by the Zilla Parishad before filing the Appeal. After having perused the contents of the order dated 01.07.2016, passed by the District Judge, Parbhani, it is difficult to say that the Zilla Parishad did not make any effort to file the Appeal within the stipulated period. It cannot be a matter of dispute that the public bodies are required to obtain sanctions from higher authorities, seek legal opinion and thereafter to arrange the funds to pay Court fees, if the Appeal is directed to be filed. It seems that said difficulties were faced also in the present matter and that seems the reason that the Appeal could not be filed within the period of limitation.

7. The material on record reveals that the Suit filed by the Zilla Parishad against the present applicant has been dismissed by the Trial Court. In the Appeal, it was the contention of the

Zilla Parishad that several legal and factual aspects remained unconsidered by the Trial Court. Without going into the merits of the contentions raised in the Appeal, it appears to me that when the Trial Court has taken some view after assessing the evidence which was placed before it and has exercised its discretion in favour of the Appellant i.e. Zilla Parishad, unless it is found that it is arbitrarily exercised, there seems no reason to interfere in the finding so recorded. On perusal of the impugned order, it does not appear that the learned District Judge has arbitrarily exercised its discretion in condoning the delay.

8. From the material on record, it is discernible that the inaction on part of the concerned Officers of the Zilla Parishad was the cause because of which the Appeal could not be filed within the stipulated period. However, I agree with the view taken by the learned District Judge that when public money is involved, for the inaction or negligence on part of Officers concerned, the public body like Zilla Parishad shall not be deprived of availing the statutory remedy of Appeal. It need not be stated that the respondent in the Appeal would get full opportunity to oppose the contentions raised in the Appeal against the impugned Judgment and award. After having considered the facts as aforesaid, I see not infirmity in the order

passed by the learned District Judge. In the circumstances, I do not even wish to call upon the respondent to appear in the matter.

9. At this juncture, a request is made by the learned Counsel appearing for the applicant that if this Court is inclined to reject the application and consequently the Civil Revision Application filed by the present applicant, the District Judge shall be directed to decide the Appeal as expeditiously as possible. The request so made is rational and deserves to be accepted. In the circumstances, the following order is passed:-

ORDER

I) Civil Revision Application is summarily dismissed. The learned District Judge, Parbhani, is directed to decide the Appeal filed by the Zilla Parishad, Parbhani, as expeditiously as possible and preferably within a period of six months from the date of receipt of present order.

(P.R.BORA)
JUDGE