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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5757/2019**

GANAPATHI NAGAPPA PATIL

..... Petitioner

Through: Mr Gopal Singh, Mr A.K. Singh and
Mr Shivalok, Advocates.

versus

**CENTRAL BOARD OF FILM CERTIFICATION,
BANGALORE AND ANR.**

..... Respondents

Through: Mr Jitesh Vikram Srivastava and Mr
Sameer S. Sinha, Advocates for R-1 &
2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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24.05.2019

CM APPL. 25090/2019

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. Issue notice. The learned counsel appearing for the respondents accept notice.
4. The petitioner has filed the present petition impugning an order dated 16.05.2019 passed by the Film Certification Appellate Tribunal (FCAT) in the Appeal No. 12 of 2019 captioned "*Ganpathi Nagappa Patil v. Central Board of Film Certification, Bangalore*". By the impugned order, FCAT has rejected the petitioner's appeal against the order dated 24.01.2019 passed by respondent no.2 (Central Board of Film Certificates – CBFC) on the ground

of delay.

5. The petitioner had applied to CBFC for a U or U/A Certificate for the film named “Mukhavada Illadavanu 84”. It is stated that the said film was screened on 08.01.2019 before the CBFC and certain oral directions were given to the petitioner for seeking the said certificate. The petitioner contends that he immediately submitted a fresh CD with the modifications as directed. However, he did not hear from CBFC, thereafter. It is stated that an order dated 24.01.2019 was passed by CBFC, thereafter, which was uploaded on CBFC’s website. The petitioner states that he was not aware of the same since he had proceeded in terms of the oral directions given on 08.01.2019.

6. The petitioner claims that he became aware of the said order sometime in February, 2019 and filed an appeal online on 17.02.2019; that is, within the period of thirty days of the said order.

7. It is stated that since the petitioner did not receive any further information, he approached the concerned authorities and was informed that although the website of CBFC provide an online appeal, the said system has not integrated with FCAT and, therefore, the online appeal cannot be transmitted online. On becoming aware of the fact that his online appeal has not been forwarded to FCAT, on 06.05.2019, the petitioner filed an appeal against the order dated 24.01.2019 under Section 5C of the Cinematograph Act, 1952. The said appeal has been dismissed on the ground that the same is beyond the period of thirty days as stipulated in Section 5C of the Cinematograph Act, 1952. It is also noted that FCAT can condone the delay of thirty days if the appellant establishes that he was prevented by sufficient cause from filing the appeal within a period of thirty days.

8. Since the petitioner had filed his appeal with a delay of more than sixty days from the date of order, FCAT has passed an order dated 16.05.2019 rejecting the petitioner's appeal solely on the ground of delay. In its order, the FCAT also observed that the appellant may approach the High Court for condonation of delay and for direction that the decision be rendered on merits.

9. It is relevant to note that if the petitioner's online appeal was considered, the same was within the period of limitation. In the given circumstances of this case, this Court is of the view that the right to the petitioner to prefer an appeal ought not be denied on account of delay.

10. In view of the above, the impugned order is set aside and FCAT is directed to consider the petitioner's appeal on merits uninfluenced the question of delay.

11. The petition is allowed in the aforesaid terms.

12. Order *dasti* under signature of Court Master.

MAY 24, 2019
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VIBHU BAKHRU, J