

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

WRIT PETITION NO.5660 OF 2020

Rahul s/o Ramnath Thombre
Age:25 years, Occu: Agri. and Sarpanch
of Village Panchayat, Hajipur,
R/o. Hajipur, Tq. Shirur, Dist. Beed.

PETITIONER

VERSUS

- 1] The Additional Divisional Commissioner-2,
Aurangabad Division, Aurangabad.
- 2] The District Collector,
Beed, Dist. Beed.
- 3] The Tahsildar,
Shirur, Tq. Shirur, Dist. Beed.

RESPONDENTS

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Advocate for Petitioner : Mr. Yogesh Bolkar h/f. Mr. M.D. Gite
AGP for respondents : Mrs. D.S. Jape

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CORAM : MANGESH S. PATIL, J.

Date : 25.09.2020

JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. Learned AGP waives service of notice for the respondents. With the consent of both the sides the matter is heard finally at the stage of admission.

2. By the impugned order, the Appeal preferred by the petitioner under Section 16(1) of the Maharashtra Village Panchayats Act, 1959 has been dismissed solely on the ground of delay and the order is being impugned in this Petition.

3. The learned advocate for the petitioner submits that even

though the Appeal was filed after some delay, it was merely a delay of 6 days and in spite of this being the period of pandemic wherein lock down was promulgated from time to time, the decision of the Additional Commissioner is clearly arbitrary and capricious and may be set aside and he may be directed to register the Appeal.

4. The learned AGP submits that admittedly there was a delay of 6 days in preferring the Appeal and therefore there is no apparent illegality committed by the Additional Commissioner in refusing to register the Appeal.

5. Admittedly, there was a delay of 6 days in preferring the Appeal under Section 16 (1) of the Maharashtra Village Panchayats Act. Needless to state that the delay is meager one. Taking note of the fact that these are the testing times for everybody, an authority exercising the quasi judicial powers cannot be so harsh as to be unmindful of the situation and unable to exercise the discretion even to condone such a small delay of barely 6 days. The impugned order is clearly an arbitrary exercise of the powers and refusal to exercise the discretion for uncalled for reasons. The order cannot sustain and it is quashed and set aside.

6. The Writ Petition is accordingly allowed and the Rule is made absolute. The Additional Commissioner respondent No.1 may register the Appeal now. The petitioner to appear before him on 14.10.2020.

(MANGESH S. PATIL, J.)