

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

921 CIVIL APPLICATION NO.9876 OF 2019
IN
SAST/32418/2018

SARJUBAI DEVKISAN SOMANI (DIED) LRS
RAMPRASAD AND OTHERS
VERSUS
VIJAY KESHAVRAO THOKAL AND OTHERS

...
Mr.M.V.Navandar, Advocate for applicants.

...

CORAM : V.L. ACHLIYA, J.
DATE : 17/02/2020

...

ORAL ORDER:

1. The applicants/appellants have preferred this application for condonation of 37 days delay in filing appeal for the reasons set out in detail in the application.

2. Heard learned counsel for applicants. None present for respondents.

3. In brief, it is the contention of learned counsel for applicants that delay caused in filing appeal can not be termed as intentional and deliberate. It is submitted that the delay has been caused due to time

taken by the Advocate to prepare and present appeal and make arrangement to pay court fees.

4. On due consideration of submissions advanced in the light of unchallenged, uncontroverted pleadings made in the application, assigning cause for condonation of delay in filing appeal I am of the view the delay deserves to be condoned. No prejudice would cause to respondents if delay is condoned as ultimately the case will be decided on merit. On the contrary, if delay is not condoned, there is every likelihood that serious prejudice may cause to the applicants. Keeping in mind broad principles laid down by Apex Court in the matter of condonation of delay in the case of ***Isha Bhattacharjee V/s Managing Committee of Raghunathpur Nafar Academy and others reported in (2013) 12 SCC 649***, I am of the view delay deserves to be condoned. I am, therefore, inclined to allow the application. Accordingly, the application is allowed in terms of prayer clause 'B'. Delay condoned. Appeal be registered subject to removal of office objections.

3 921 C.A. 9876.2019 in S.A.St.32418.2018

5. Civil Application disposed of in above terms.

[V.L.ACHLIYA]
JUDGE

KNP