

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

WRIT PETITION NO. 15284 OF 2019

Bapusaheb Vishwanath Patare .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri Vitthal H. Dighe, Advocate for the Petitioner.

Shri P. G. Borade, A.G.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 21ST JANUARY, 2020.

FINAL ORDER :

. The petitioner has presented Original Application No. 701 of 2019. The delay was caused in presenting the original application. The petitioner filed an application for condonation of delay bearing M. A. No. 368 of 2019. The application of the petitioner for condonation of delay is rejected. Aggrieved thereby present petition.

2. Mr. Dighe, the learned advocate for the petitioner submits that, the Tribunal has taken a hyper technical approach while rejecting the application for condonation of delay. In fact, appeal filed by the petitioner was pending. It was not decided. The representation was also filed. Same was not attended. The petitioner was expecting decision in appeal. In view of that, the delay was caused.

3. The learned Assistant Government Pleader for respondents/State submits that, there is the delay of 08 months 16 days in filing original application. There is no cogent reason assigned for not filing original application in time. The provision of Sec. 21 of the Administrative Tribunals Act, 1985 provides that if representation/application is filed and the same is not decided within six (06) months, then within a period of one year original application has to be filed. The delay is abnormal.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. It is trite that, whenever technical considerations and cause for substantial justice are pitted against each other, cause for substantial justice has to be sub-served. It is not necessary for a party to explain each and every day's delay. The petitioner, it appears that, has filed representation. Same is pending. The petitioner has also filed appeal and same was pending. The respondents did not decide the appeal and representation. The petitioner bonafidely believed that atleast appeal would be decided. In view of that, the delay was caused. It cannot be said that the delay is inordinate one or the same is intentional one. However, same was on bonafide belief that, the respondents will not abdicate their duty in deciding it.

6. In the light of the above, impugned order is quashed and

set aside. M. A. No. 368 of 2019 is allowed. The delay caused in preferring original application is condoned. The writ petition accordingly is allowed. No costs.

[SHRIKANT D. KULKARNI, J.] [S. V. GANGAPURWALA, J.]

bsb/Jan. 20