

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 1071 OF 2018

BAPU NAIK (DECEASED) THROUGH HIS
LRS.,

... Petitioner

Versus

ANASTACIO SOUZA (DECEASED) THROUGH
LRS. AND ANR.,

... Respondents

Adv. Amay Arjun Phadte, for the Petitioner.

Adv. Siddharth Samant for Respondent no.2.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 24th January 2020

Oral Order:

Against the Deputy Collector's order, the petitioners applied in revision to the Administrative Tribunal. As they filed the Revision with about six months delay, they have also applied for the condonation of delay. The Administrative Tribunal, through its order dated 26.4.2017, refused to condone the delay. So the petitioners have challenged that order in this writ petition.

2. The petitioners' counsel contends that though the first petitioner, aged 85 years, pleaded that she had been ill and bed ridden, the Administrative Tribunal, instead, went into the merits of the case and dismissed it. According to him, it is impermissible.

3. On the other hand, the learned counsel for the second respondent has asserted that the petitioners have been aware of the proceedings, and

the story of illness is only a mere excuse. According to him, the order impugned is unassailable.

4. As I have perused the order, I reckon that the Administrative Tribunal has discussed the merits, held that the petitioners do not have much of a case and, accordingly, dismissed the revision. In so far as the petitioner's application for the delay condonation is concerned, it only refers to the first applicant's illness and the other petitioner's inability to file the revision on time.

5. The Administrative Tribunal, I reckon, ought to have referred to the cause shown in the application for the delay condonation and ruled on it. It is well established that merely because a person may have, in the court's perception, brought a weak case before it, the court cannot refuse to condone the delay. Condonation or its rejection must not be on the merits eventual merits of the case. On the other hand, in a delay condonation petition, the court concerns itself with the cause for the delay shown in the application. That is, the application filed for that purpose and the reasons mentioned in that application alone shall be discussed.

Under these circumstances, I set aside the impugned order and remand the matter to the Administrative Tribunal. It will, I stress the obvious though, consider the petitioners' delay condonation application based on the justification supplied in that application.

DAMA SESHADRI NAIDU, J.

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