

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.10739 OF 2017
IN FAST/23186/2017

THE EXECUTIVE ENGINEER LATUR MINOR IRRIGATION DIVISION
AND ANOTHER
VERSUS
MAHADU SOPAN PHULE

...
Advocate for Applicant No. 1 : Mr. S.C. Arora
AGP for Applicant No. 2: Mr. Y. G. Gujrathi
Advocate for Respondent : Mr. V.D. Gunale

...
WITH CA/10741/2017 IN FAST/23284/2017

...
CORAM : ANIL S. KILOR, J.

DATE : 8th APRIL, 2021

PER COURT :-

1. Both the applications are filed by applicant – Acquiring Body for condonation of delay in filing the first appeals challenging legality and validity of the Judgment and Award dated 13-03-2012 passed by the learned 4th Joint Civil Judge, Senior Division, Latur, District Latur, in LAR Nos. 684 and 683 of 2000. The delay is of 1857 days in filing the appeals. The delay is inordinate. The reasons stated in the application are in respect of procedural formalities needs to be completed by the Government Agency.
2. Heard learned counsel for the respective parties.
3. Learned counsel appearing for applicant-Acquiring Body states that in the applications, the reasons stated for condonation are given. He states that reasons are justifiable and sufficient for

condonation of delay. He further states that delay is not intentional but bonafide. Therefore, he prayed to condone the delay

4. On the other side no reply has been filed by any of the respondents opposing the present application/s, however, orally the present application/s have been opposed on the ground that the delay is inordinate and if this Court condones the delay, the same shall be subject to heavy cost.

5. After going through the contents of the applications, which are mainly on procedural aspects, however, looking to the inordinate delay, this explanation cannot be considered. In a recent Judgment of the Honourable Supreme Court of India, in the case of ***State of Madhya Pradesh Versus Bherula***¹ has held that :-

"It is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

6. After considering the request made in the application and in view of the Judgment of the Honourable Supreme Court in the case **1(2020) 10 SCC, 654**

of *State of Madhya Pradesh (Supra)*, I am of the opinion that the delay on the ground of procedural aspects cannot be considered, but on imposition of cost of Rs.5000/- to be recovered from erring Officer/s. Accordingly, I proceed to pass following order.

:: ORDER ::

- (i) The Civil Applications are allowed.
- (ii) The delay caused in filing the first appeal/s is hereby condoned subject to deposit of Rs.5000/- to be paid to the claimant/s, within a period of four weeks from today.
- (iii) The Registry is directed to register the First Appeal/s on furnishing receipt of payment of cost to the claimant/s and place the same for admission and further consideration on 10th June, 2021.
- (iv) Call for record and proceedings.

The Civil Applications stand disposed of.

**(ANIL S. KILOR)
JUDGE**

mtk