

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 14588 OF 2018 IN FAST/33698/2018

THE STATE OF MAHARASHTRA AND ANR
VERSUS
NARAYAN DEORAO GORE (DIED) THR LRS VACHALABAI (DIED) THR
DHONDAN AND ORS

...
AGP for Applicants : Mr. S. S. Dande
Advocate for Respondents : Mr. Vivekanand V. Ingale

...
CORAM : ANIL S. KILOR, J.
DATE : 8th APRIL, 2021

PER COURT :-

1. Office note shows that respondents No. 5, 6 and 7 are unserved, however, today learned counsel Mr. V.V. Ingle, waives notice for respondents No. 5, 6 and 7.
2. This application is filed by applicant – Acquiring Body for condonation of delay in filing the first appeal challenging legality and validity of the Judgment and Award dated 22-06-2011 passed by the learned Joint Civil Judge, Senior Division, Omerga, in LAR No. 442 of 2005. The delay is of 2596 days in filing the appeal. The delay is inordinate. The reasons stated in the application are in respect of procedural formalities need to be completed by the Government Agency.
3. Learned counsel appearing for the claimants opposed the said application.
4. In a recent Judgment of the Honourable Supreme Court of India, in the case of *State of Madhya Pradesh Versus Bherulal*¹ has held that :

¹(2020) 10 SCC, 654

"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."

5. After considering the request in the application and in view of the Judgment of the Honourable Supreme Court in the case 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 the erring officer. Accordingly, I proceed to pass following order.

:: ORDER ::

- (i) The Civil Application is allowed.
- (ii) The delay caused in filing the first appeal is hereby condoned subject to deposit of Rs.5000/- to be paid to the claimant, within a period of four weeks from today.
- (iii) The Registry is directed to register the First Appeal on furnishing receipt of payment of cost to the claimants and place the first appeal for admission and further consideration.
- (iv) The Civil Application stands disposed of.

**(ANIL S. KILOR)
JUDGE**