

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 139 OF 2019
IN
REVIEW PETITION (ST.) NO. 25183 OF 2019**

Sudhir Suresh Sahu ... Applicant

Versus

The Divisional Caste Scrutiny Committee & Ors. ... Respondents

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Ms. Babita P. Pandey for the Applicant.

Mr. R.P. Kadam, A.G.P. for the Respondent Nos.1.

Mr. Santosh Jadhav i/b Priyanka Patil for Respondent Nos.2 and 3.

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**CORAM : K.K. TATED &
R.I. CHAGLA, JJ.**

DATE : 19th MARCH, 2021.

P.C. :-

1 Heard learned Counsel for the parties.

2 By this Interim Application Applicant / Original Petitioner is seeking condonation of 2 years and 19 days delay in filing the Review Petition Stamp No.25183 of 2019 to review the order dated 18.07.2017 passed by this Court (Coram : B.R. Gavai and Riyaz.I. Chagla, JJ.) in Writ Petition No.6533 of 2017 with Civil Application No.1599 of 2017.

3 The learned Counsel for the Applicant submits that because of financial difficulty, it remained on the part of Applicant to file the Review Petition immediately. She further submits that after dismissal of the Writ Petition No.6533 of 2017, the Petitioner filed one more Writ Petition No.11196 of 2018 with prayer to re-verify the claim of the Petitioner by Caste Scrutiny Committee. The learned Counsel for the Applicant submits that Applicant withdrew that second Writ Petition No.11196 of 2018 on 17.06.2019. In support of this contention, the learned Advocate for the Applicant relies on para 3 of the Interim Application, which reads thus :

“3. The Applicant was facing health issues and financial crisis and also after dismissal of Writ Petition No. 6533 of 2017 the Order dated 18/07/2017 was received by the Petitioner immediately but Petitioner had applied caste certificate for the second time from Karanja Lad, Maharashtra online and the scrutiny committee had rejected to verify the caste claim of Petitioner for second time due to dismissal of above mentioned Writ Petition and therefore, Petitioner had filed one more Writ Petition No.11196 of 2018 with prayer to re-verify the claim of Petitioner which was withdrawn on 17/06/2019 with liberty to file present Review Petition as appropriate remedy therefore there is a delay of 2 years 19 days in filing this Review Petition and urge to the Hon’ble Court

*to condone it and if it is not condoned then the Petitioner will suffer from irreparable loss, as balance of convenience is heavily in favour of the Petitioner. **Hereto annexed and marked as Exhibit "A" is the copy of order dated 17/06/2019 passed by the Division Bench presided over by Hon'ble Shri Justice R.M. Borde & Hon'ble Shri Justice N.J. Jamadar.***

4 The learned Counsel for the Applicant submits that after the decision in Writ Petition No.6533 of 2017 on 18.07.2017, Applicant as well as Applicant's father traced out some important documents in favour of them to show that they are entitled to caste validity certificate from the Committee. She submits that they have good chance of success in the present matter. She submits that in the interest of justice this Hon'ble Court be pleased to condone the delay and decide the Review Petition on its own merits. She submits that if delay is not condoned, irreparable loss will be caused to him.

5 On the other hand, the learned A.G.P. Mr. R.P. Kadam appearing on behalf of Respondent-State and learned Advocate Mr. Santosh Jadhav for Respondent Nos.2 and 3 vehemently opposed the present Application. Both the learned Counsel submits that there is no

substance in the present application. They submits that Applicant failed and neglected to disclose the sufficient cause for condonation of delay of 2 years and 19 days in filing the Review Petition. Both the learned Counsel submits that this Court by order dated 18.07.2017 in Writ Petition No.6533 of 2017 specifically directed the police authority to file the F.I.R. against the Petitioner for taking appropriate action as the Petitioner placed on record the fraudulent caste certificate. Both the learned Counsel submits that in view of the finding given in the order dated 18.07.2017 by this Court in Writ Petition No.6533 of 2017, there is no question of entertaining the present Interim Application. Both the learned Counsel further submits that even bare reading of para 3 of the Interim Application clearly shows that the Applicant failed and neglected to disclose the sufficient cause for condonation of delay of more than 2 years in filing the Review Petition. Hence, the Interim Application requires to be dismissed with costs.

6 We heard both the sides in length. In the present proceeding initially the Petitioner filed Writ Petition No.6533 of 2017 challenging the order passed by the Divisional Caste Scrutiny Committee, Amravati Division, Amravati, dated 05.04.2017 by which the claim of the Petitioner of belonging to Halba (S.T.) was held to be invalid. This Court after

considering the evidence on record, recorded that the Petitioner by playing a fraud has obtained the caste certificate and placed the same on record. Those findings are recorded by this Court in paras 7 and 8 of the order dated 18.07.2017 which reads thus :

“7. We, therefore, find that the Petitioner by playing a fraud has not only obtained caste certificate but also taken this Court for a ride and obtained an interim order thereby directing Respondent No.2 to admit the Petitioner to seat reserved for ST. We have no hesitation to hold that on account of fraudulent act of the Petitioner, one eligible student who really belongs to ST, has been deprived of an admission in the MBBS Course.

8. We, therefore, see no merit in the Petition. Hence Writ Petition is dismissed. While dismissing the Petition we direct the Respondent – State to register an FIR against the Petitioner at the Police Station within whose jurisdiction the fraudulent caste certificate is issued to the Petitioner. We further direct that the District Superintendent of Police, Akola to personally monitor the investigation in the said case and find out as to who are the other persons in addition to the Petitioner, in helping the Petitioner in getting a fraudulent certificate. We do hope that the Superintendent of Police, Akola will take the matter to the logical end.”

7 Bare reading of these two paras clearly shows that the Applicant committed fraud on Respondents as well as before this Court at the time of filing the Writ Petition No.6533 of 2017.

8 Apart from these facts, the reason given by the Applicant in para 3 of the Application clearly shows that the Applicant failed and neglected to disclose sufficient cause for condonation of more than 2 years in filing the Review Petition. In any case financial difficulty cannot be a cause for condonation of more than 2 years delay. Not only that the subsequent Writ Petition No.11196 of 2018 filed by the Petitioner was withdrawn by him on 17.06.2019. Bare reading of para 3 of the Interim Application clearly shows that the Applicant failed and neglected to disclose sufficient cause for condonation of more than 2 years delay.

9 In view of these facts, we do not find any substance in the present Application. Hence, following order is passed :

- i) Interim Application stands rejected.
- ii) No order as to costs.

(R.I. CHAGLA, J.)

(K.K. TATED, J.)

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