

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

CIVIL APPLICATION NO.5473 OF 2022  
IN RAST/2901/2022

SHARAD DEVARAM TAYADE AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Applicants : Ms.Pradnya S. Talekar i/by Talekar And  
Associates

AGP for the Respondents/ State : Shri S.G. Sangle

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**CORAM: RAVINDRA V. GHUGE, J.**  
**DATE :- 22<sup>nd</sup> April, 2022**

**Per Court:**

1. This Civil Application is filed for seeking condonation of delay of 1930 days caused in filing the Review Petition.
2. I have perused the reasons set out in the application for explaining the delay of 1930 days.
3. In *Esha Bhattacharjee v/s Managing Committee of Raghunathpur Nafar Academy, (2013) 12 SCC 649*, the Honourable Supreme Court has considered the entire law on condonation of delay by referring to catena of judgments and has culled out the following principles :-

“21. From the aforesaid authorities the principles that can broadly be culled out are:

- i) There should be a liberal, pragmatic, justice-

*oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.*

*ii) The terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.*

*iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.*

*iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.*

*v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*

*vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.*

*vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.*

*viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.*

*ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.*

*x) If the explanation offered is concocted or*

*the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.*

*xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.*

*xii) The entire gamut of facts are to be carefully scrutinized and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.*

*xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.”*

“22. *To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are :-*

*a) An application for condonation of delay should be drafted with careful concern and not in a half hazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.*

*b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.*

*c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.*

*d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.”*

4. Considering the above, I do not find that the reasons cited in the application could justify such a long and inordinate delay. Moreover, merely because the Industrial Court in another group of matters at Nashik has decided the cases differently, would not mean that the review could be entertained in the light of the decision of the different Industrial Courts, though the employees may be from the same Department. In the instant case, there is finding of fact that these petitioners were working under the Employment Guarantee Scheme (EGS). So also, when they were offered work, they had declined to work.

5. In view of the above, this Civil Application stands rejected.

*kps*

(RAVINDRA V. GHUGE, J.)