

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

945 CIVIL APPLICATION NO.5093 OF 2022
IN FIRST APPEAL STAMP NO.8856/2022

EXECUTIVE ENGINEER, MINOR IRRIGATION DIVISION
NO. 1, JALNA ROAD, AURANGABAD
VERSUS
KESHAV SAMPAT SONAWANE & ANOTHER

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Advocate for Applicant : Mr.S.G.Sangle
AGP for Respondent-State : Mr.S.S.Dande
Advocate for Respondent no.1 : Mr.N.J.Pahune Patil

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CORAM : S.G.DIGE, J.
DATE : 26.07.2022

P.C. :

1] Heard the learned counsel for the applicant, learned counsel for respondent no.1 and learned AGP for respondent no.2.

2] It is the contention of the learned counsel for the applicant that the applicant has challenged the order passed by the Reference Court at Aurangabad in LAR No.402 of 2009. The learned counsel for the applicant further submits that after getting certified copy of the award, the applicant sought guidance from the higher

authorities i.e. the Corporate Office at Aurangabad and after receipt of the necessary approval from the higher authorities, the applicant rushed by appointing Advocate for filing Appeal on 30th March, 2021. Therefore, there is delay caused for filing the appeal. The said delay is caused, which is unintentional and not deliberate but caused due to official procedure. The learned counsel for the applicant further submits that the applicant [Corporation] is a public body, involved in welfare and development activities for the benefit of public at large. The delay caused is purely due to the time consumed in procedural aspect involved. Therefore, the delay caused needs to be condoned in the interest of justice as the matter involves satisfaction of award in money terms.

3] It is the contention of the learned counsel for respondent no.1 that there is no proper explanation about delay in the matters where the farmers file appeals for condonation of delay. In those matters, while condoning the delay the Court directs the appellants to waive interest and

statutory benefits for the delayed period. The same principle be applied to the appeals filed by the Government Authorities or acquiring bodies by imposing cost on them for delayed period.

4] I have heard both learned counsel. There is delay of 1614 days for filing the First Appeal. The present Application for condonation of delay is preferred by the applicant, who is the Corporation, Aurangabad. It is the Government Authority. The appeal is preferred on the ground that exorbitant compensation is given by the Reference Court. While condoning the delay, the Court has to consider whether there is proper explanation for delayed period is given or not. Admittedly, the applicant is a Government Body. The contention of the applicant is that the exorbitant compensation is given to respondent no.1. While preferring the appeal, the applicant has to seek guidance from the higher authorities, hence, delay is caused. If this Court refused to condone the delay then it would amount to deny justice to the Government

Authorities; when they are alleging that exorbitant compensation is given by the Reference Court. The amount, which is going to be paid by the Government Body, is a public money, so it is necessary to consider the legality of the order passed by the Reference Court. The period gone in taking guidance can be considered as proper explanation for delayed period. The Government Authority is not a sole person, who can take immediate decision, but there are authorities who take decision about filing of appeal, hence, I consider it as proper explanation and I pass following order :

ORDER

- i] The application is allowed. Delay of 1614 days for filing First Appeal is condoned.
- ii] Appeal be registered subject to removal of office objections, if any.
- iii] Civil Application is disposed of accordingly.

**[S.G.DIGE]
JUDGE**