

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

**CIVIL APPLICATION NO.6452 OF 2019  
IN WP/5678/2014**

**JUMME KHAN ASHRAF KHAN  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

...  
Advocate for the Applicant : Shri S.R. Barlinge and Shri S.S.  
Kazi

AGP for Respondent 1 : Shri P.S. Patil  
Advocate for Respondents 2 and 3 : Shri S.S. Tope

...

**CORAM : RAVINDRA V. GHUGE  
&  
MANGESH S. PATIL, JJ.**

**DATE :- 22<sup>nd</sup> April, 2022**

**Per Court :-**

1. We have considered the submissions of the learned advocates for the respective sides on the application seeking condonation of delay of one year and 249 days caused in filing the application for recalling the order dated 23.06.2017. The delay is a bit large and the explanation is not fully satisfactory. The prayer for recalling of the order dated 23.06.2017 has been made. The learned advocates are ready and willing to address the Court on the prayer for recalling of the order, today itself.

2. In view of the above, the prayer for condonation of

delay is allowed.

3. Insofar as the prayer for recalling of the order dated 23.06.2017 is concerned, we have considered the submissions of the learned advocates Shri S.R. Barlinge and S.S. Kazi on behalf of the applicant/ petitioner, the learned AGP on behalf of the respondents/ State and Shri Tope, the learned advocate for the original respondent Nos.2 and 3.

4. There is no dispute that the learned advocate for the petitioner had canvassed all his points in the writ petition and after this Court expressed its disinclination, the learned advocate found it appropriate to withdraw the writ petition on instructions so as to avoid an order of rejection. Therefore, our order dated 23.06.2017, which reads as under :-

*“1) After the Writ Petition was argued for some time and the Court was reluctant to grant any relief, on instructions from petitioner, Mr.Barlinge, learned counsel seeks leave to withdraw the Writ Petition. Leave granted. The Writ Petition is disposed of.”*

5. We cannot appreciate the conduct of the petitioner. When the matter was heard by the Court (Coram : S.C. Dharmadhikari and Mangesh S. Patil, JJ) and when the Court was reluctant to grant any relief, which order could have been

passed with reasons, the petitioner found it appropriate to withdraw the petition so as to avoid an order of rejection. After one Honourable Member of the Bench had demitted the office, it would be unfair to entertain such petition as it would amount to forum hunting.

6. Considering the above, we find that the prayer for recalling of the order does not deserve to be entertained. The prayer is, therefore, refused. Hence, the Civil Application seeking recalling of the order, is rejected.

*kps*

(MANGESH S. PATIL, J.)

(RAVINDRA V. GHUGE, J.)