

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

915 WRIT PETITION NO.6552 OF 2019

**SONAJI SAKHARAM KAYANDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr. Panpatte V.S.
AGP for Respondents : Mr. P.S. Patil
...

**CORAM : RAVINDRA V. GHUGE &
S.G. MEHARE, J.J.**

DATED : 02nd MARCH, 2022

PER COURT:-

1. On 10.06.2019, this Court (Coram: S.V. Gangapurwala and Mangesh S. Patil, J.J.) passed an order, after being convinced that the petitioner is unable to explain the delay and laches and it was observed that prima facie, there is an inordinate delay in filing the petitions. Yet, an opportunity was granted to the petitioners to convince the Court on the point of delay.

2. We have heard the submissions of the learned counsel for the respective parties at length. Shri Panpatte argued the case for the petitioner and repeated his submissions almost 4 times.

3. In this petition, we find that the claim of this petitioner has been consistently rejected by the competent authority. His claim was first advanced on 29.11.1994 and which has been rejected.

Thereafter, his subsequent representation was also rejected. The last rejection is dated 15.05.2002. In view of the inordinate delay and laches attributed, this petition need not be entertained.

4. Notwithstanding the above and on the insistence of the learned advocate for the petitioner, we have considered his submissions on the grounds put-forth in this petition. In his endeavor to convince us, he repeated his argument almost four times. He contends that this petitioner has put-forth his claim on 10.11.1994. He was a member of the State Congress. He had been an underground freedom fighter. He used to carry the tricolor flag and move around in villages distributing hand bills and posters. He had participated in looting the Nizam Regime, destroying bridges and setting fire to the official records of the Patil/Patwari.

5. There is not a whisper of he having been compelled to leave his normal place of residence and live away from his home. The Government Resolution dated 04.07.1995 clearly provides, inter-alia amongst several other conditions, that a person must be required to stay away from home during the Hyderabad Liberation Movement. He has not taken a stand by which his case would fall under any other category as set out in the said government resolution.

6. With regard to the underground freedom fighters case, the requirement is that such a candidate should have left his normal place of residence or he had to quit his education or he was rusticated

by an educational institution or he was beaten up by the police which resulted in permanent disability/handicap or he must have suffered 2 years of imprisonment as punishment or he should have been officially declared as being an absconder and he should be so declared for atleast 2 years. It is also a requirement that 2 freedom fighters should execute affidavits to certify the participation of such a candidate. The eligibility criteria for such 2 freedom fighters to execute affidavits is that they should have suffered atleast 2 years of imprisonment as punishment during the freedom struggle and necessary records should be annexed by such freedom fighters along with their affidavit in support of a candidate.

7. Shri Motilal Laxmichand Sharma, a freedom fighter, has executed the affidavit in favour of this petitioner. Nowhere does he state as to whether he himself had suffered imprisonment for 2 years as punishment for participating in the freedom struggle. His eligibility to execute an affidavit in support of the petitioner is seriously doubted. The certificate of imprisonment of affiant Motilal Laxmichand Sharma indicates that he was sentenced to 2 years and 6 months rigorous imprisonment on 01.09.1947. However, he was released from prison on 11.10.1948 and had served only 13 months jail term.

8. The petitioner has then addressed a letter dated 26.09.1995 to the District Collector, Jalna, in response to the notice

issued by the said office calling for an explanation from the petitioner. He submits that one affidavit is issued by a freedom fighter namely Keshav Tulshiram Bare, who suffered 3 months imprisonment. The affidavit of such a freedom fighter is inconsequential in view of the Government Resolution dated 04.07.1995. He then submits that the second freedom fighter who has supported his application is Asaram Karbhari Ghuge. However, he was never in jail and he was never imprisoned. This affiant also is ineligible to support the case of the petitioner.

9. The petitioner has also produced an affidavit from a purported Police Patil namely Baburao Nana Wagh. For the first time, a story is put up that the petitioner was chased by the Nizam Police and he had to leave his village and stay elsewhere. The petitioner has then produced an affidavit from a purported freedom fighter namely Khanderao Ganpatrao Khalse, who claims that he had suffered imprisonment for 2 years and 3 months in the 1942 Quit India Movement. He had participated in the Hyderabad Liberation Movement. He had also participated in the Goa Liberation Movement. However, the certificate of imprisonment issued in favour of this affiant Khanderao Ganpatrao Khalse, indicates that he had suffered 18 months rigorous imprisonment for participating in the Civil Disobedience Movement and was released from jail with a remission of 8 days. In appeal, his sentence was reduced to rigorous

imprisonment for 6 months and fine of Rs. 50/-. This affiant also is ineligible to execute an affidavit in support of the petitioner.

10. Considering the above, even on merits, we find that the petitioner's application cannot be accepted and was rightly rejected on 15.05.2002. He seeks to challenge the said order after 17 years.

11. This petition is therefore dismissed on account of inordinate delay and laches as well as on merits.

(S.G. MEHARE. J.)

(RAVINDRA V. GHUGE, J.)