

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8844 OF 2021

PRATAP RAVSAHEB PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Tushar Tandale
AGP for Respondents-State: Mr. S.W. Munde
Advocate for Respondent No. 5: Mr. S.G. Kawade

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 9th JUNE, 2022

ORDER :

1. The Tahsildar passed an order under section 5 of the Mamlatdars Courts Act, 1906, against the petitioner on 05.02.2020. The petitioner challenged the said order by filing revision under section 23(3) of the said Act, along with application for condonation of delay of 331 days, according to the petitioner which was caused due to Covid pandemic. The Sub Divisional Officer has refused to condone the delay and dismissed the revision on the ground of delay. Hence, the present petition.

2. Heard the learned advocate for the petitioner who assailed the impugned order contending that approach of the Sub Divisional Officer in rejecting the prayer for condonation of

delay is hypertechnical and non application of mind on the part of Sub Divisional Officer is apparent on the face of record.

3. The learned Assistant Government Pleader for respondents/State supports the impugned order.

4. The learned advocate for respondent no. 5 vehemently opposed the prayer of the petitioner for condonation of delay and supported the impugned order.

5. The Sub Divisional Officer refused to condone the delay holding that why the delay is caused is not explained and no evidence in support of delay condonation is placed on record by the petitioner. No proper reason is given by the petitioner for condonation of delay.

6. Admittedly, the petitioner has averred that due to Covid pandemic he could not approach at earlier point of time and said delay is caused. This was a sufficient reason which ought to have been accepted by the Sub Divisional Officer. The Sub Divisional Officer has ignored the fact that the petitioner needs to be given reasonable and fair opportunity to challenge the decision of

Tahsildar and the petitioner needs to be given fair opportunity to contest the revision filed by him. The impugned order is therefore unsustainable. Hence, the following order:

ORDER

1. The writ petition is allowed.
2. The impugned order dated 16.07.2021 passed by Sub Divisional Officer, Omerga, is hereby quashed and set aside.
3. Delay of 331 days caused in filing revision before Sub Divisional Officer is condoned subject to petitioner paying cost of Rs. 2,000/- to respondent No. 5

[NITIN B. SURYAWANSHI, J.]