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

920 WRIT PETITION NO.986 OF 2022

VISHNU BHAGWANRAO ZOMBADE
VERSUS
THE ADDITIONAL DIVISIONAL COMMISSIONER 2 AND
OTHERS

...

Mr S. R. Kedar, Advocate for petitioner;

Mr N. T. Bhagat, A.G.P. for respondent No.1

Mr P. D. Suryawanshi, Advocate for respondent Nos.2 & 3

CORAM : RAVINDRA V. GHUGE, J

DATE : 10th March, 2022

PER COURT:

1. The petitioner is before this Court in view of the order dated 15/09/2021, passed by the Additional Divisional Commissioner, Aurangabad, refusing to condone the delay of 230 days beyond the limitation period of 90 days, in preferring an appeal for challenging the order dated 24/09/2018, passed by the Competent Authority, imposing punishment upon the petitioner.

2. I have considered the submissions of the learned Advocates for the respective sides and the learned A.G.P. on behalf of respondent No.1.

3. The learned Advocate representing the Zilla Parishad has strenuously opposed this petition by contending that the delay is

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quite large. 90 days is the limitation period. The delay is of 230 days. Explanation is that the representations were being made, which cannot be a ground for condonation of delay. Though Rule 16 of the Maharashtra Zilla Parishad District Services (Discipline and Appeal) Rules, 1964, enables condonation of delay, such condonation should be only for justifiable reason.

4. I find that the charge levelled upon the petitioner is quite serious. He was issued with a show cause notice, as to why his two annual increments should not be stopped permanently. No doubt, the delay in comparison to the period of limitation is a bit large and the explanation is also not as satisfactory as it should have been. However, if the delay is not condoned, the petitioner would be practically remediless. Unless mala fides or laches are attributable to the conduct of a person, the delay can be condoned by taking a liberal view.

5. I am of the view that the law laid down by the Apex Court in **Collector, Land Acquisition, Anantnag v/s Mst. Katiji, AIR 1987 SC 1353** and **Esha Bhattacharjee v/s Managing Committee of Raghunathpur Nafar Academy, (2013) 12 SCC 649**, would be applicable in this case.

6. In view of the above, this petition is partly allowed.

The impugned order dated 01/02/2020 and the order under review, dated 15/09/2021, are quashed and set aside, by imposing costs of Rs.10,000/- (Rs. Ten Thousand), which the petitioner shall deposit in the office of the Divisional Commissioner, Aurangabad, on or before 31/03/2022. On this condition, the delay stands condoned and the appeal filed by the petitioner shall be registered by the Competent Appellate Authority. Thereafter, notice be issued to the parties so as to enable the hearing in the said appeal.

7. Needless to state, if the amount is not deposited, this order shall stand recalled w.e.f. 01/04/2022 and this petition shall stand dismissed without reference to the Court.

(RAVINDRA V. GHUGE, J.)

sjk