

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8000 OF 2015**

Ganpat Khanderao Farande & Anr ...Petitioners
Versus
The Executive Engineer, Maharashtra State ...Respondents
Electricity Transmission Co Ltd & Ors

Mr Aditya Kharkar, *with Siddhesh Pilankar, i/b Uday Warunjikar,*
for the Petitioner.
Mr Ashwin Thool, *with Ayush Singh, for the Respondent.*

**CORAM G.S. Patel &
Gauri Godse, JJ.
DATED: 20th September 2022**

PC:-

1. The Petition assails two orders dated 3rd May 2013 and 13th May 2014. The order of 3rd May 2013 is at Exhibit “C” at page 21. The other order of 13th May 2014 is at Exhibit “D” at page 27. There is a delay of nearly two years in even filing the Writ Petition.
2. But that is not all there is to it. The order of 3rd May 2013 was in two Interim Applications filed by the Petitioners before the Appellate Tribunal for Electricity. They filed that Appeal against an order of Maharashtra State Commission. That order was dated 31st July 2012. There was a delay of 204 days. Thus, Interim Application

No. 132 of 2013 sought to have that delay of 204 days condoned. There were filing defects. The Registry asked the Appellants to re-file the Appeal within seven days. They did not. There was an additional delay of 36 days in that re-filing. Hence the other Interim Application No. 141 of 2013.

3. Both Applications were called for hearing on 30th April 2013. Neither the Applicants nor their counsel were present. The matter was adjourned to 2nd May 2013. Again, counsel and applicants were absent. Consequently, the Appellate Tribunal dismissed both Interim Applications and with those dismissals went the Appeals. This resulted in the Appellants filing Interim Application No. 174 of 2013 before the Appellate Tribunal. The challenge in this was to the 31st July 2012 order of the Maharashtra State Commission.

4. The Appellate order on Interim Application No. 174 of 2013 resulted in an elaborate and careful decision dated 13th May 2014. The Appellate Tribunal briefly noted the facts. The transmission licensee had proposed transmission lines over certain lands including those of the Applicants. Several land-owners objected. The transmission licensee approached the District Magistrate for protection against those who opposing the work. The District Magistrate passed an order on 31st December 2011 allowing the Petition filed to remove the objections. Against this order of the District Magistrate, the Applicants filed a Petition before the Maharashtra State Commission under Section 67(4) of the Electricity Act. The State Commission heard both sides and passed its impugned order of 31st July 2013 dismissing the Petition.

Therefore, the Appeal before the Appellate Tribunal. This was the Appeal in which there was a delay after 204 days and which had required re-filing. The Appellate Tribunal noted that the Interim Applications for delay condonation had been dismissed. This resulted in the Appellants filing Interim Application No. 165 of 2013 for restoration. It was pointed out that such an application was not maintainable since the Interim Applications for delay condonation were dismissed on merits. The Appellants' counsel sought time. Then the Appellants filed a fresh Interim Application No. 174 of 2013 in which the 13th May 2014 order was passed. By this, they were now seeking a review of the 3rd May 2013 order dismissing the delay condonation applications.

5. Both applications for restoration and review were taken up on 10th July 2013. Counsel for the Applicants withdrew the restoration application. Notice came to be issued in the Review Application.

6. The Appellate Tribunal addressed questions of maintainability as also merits. From paragraph 20, the Appellate Tribunal set out a detailed narrative of the history of the matter. We need not repeat this. It is sufficient to note that the Applicants have filed a Civil Suit and that is pending. The Appellate Tribunal was not satisfied with the reasons given for the delay in filing the Appeal and the explanations in support of the applications for condonation of delay. Then the Appellate Tribunal went on to hold that an error by the counsel or the clerk would not be sufficient. Nonetheless, the Appellate Tribunal accommodated the Applicants on at least three dates (paragraph 45 at page 53) and then proceeded to a

consideration on merits of the Appeal itself. The grounds raised by the Petitioners were set out in paragraph 50. The findings of the District Magistrate were considered in paragraph 52. Then the findings of the State Commission were considered in paragraph 55 and the Appellate Authority concluded that the District Magistrate and the State Commission had dealt with the issues in question and that there was no illegality in the orders. There was no question of any violation of the principles of natural justice nor any statutory authority. For these reasons, the Appellate Authority dismissed the Interim Application.

7. The Petition simply seeks a quashing of these two orders. None of the grounds set out below paragraph 9 commend themselves to us. Once again, we find that the only excuse is the fault of the Advocate or the clerk. Other than this, there is no meaningful ground from (A) to (I) at pages 7 and 8 of the Petition.

8. The Petition is entirely devoid of merits. It is rejected. There will be no order as to costs.

(Gauri Godse, J)

(G. S. Patel, J)