

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 2989 OF 2022

M/s. Maj. Pralhad R. Desai

...Petitioners

Versus

The Union of India & Ors.

...Respondents

Mr. Akshay Pai i/b Mr. Dilip Bodake and Mr. Sharad Bhosale for the
Petitioners

Mr. Parag Vyas a/w Mr. Panil Sonawane and Ms. Karuna Yadav for the
Respondent No.1-UOI

Mr. Vikas Mali, A.G.P for the Respondent Nos.2 & 3–State

**CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.
THURSDAY, 28th APRIL 2022**

P.C. :

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the consent of
the parties and is taken up for final disposal. Mr. Vyas waives notice on
behalf of the Respondent No.1-UOI. Learned A.G.P waives notice on
behalf of the respondent Nos. 2 and 3–State.

3 Learned counsel for the petitioners submits that the petitioners' revision application was returned and not considered by the respondent-Government of India, Ministry of Mines, on the premise that the said revision application was found late in submission for more than two years. He submits that despite the Rules providing for condonation of delay, the same has not been considered by the Revisional Authority.

4 Perused the papers. The petitioner has filed the revision application impugning the order dated 29th August 2019 by which the Hon'ble Minister for Industries and Mining Department, Maharashtra State, Mumbai, had cancelled the mining lease, which stood in the name of the petitioners.

5 Being aggrieved by the said order dated 29th August 2019, the petitioners filed a revision application before the Central Government, Mining Ministry along with an application seeking condonation of delay. Vide order dated 14th February 2022, the Under Secretary to the Government of India, Ministry and Mining returned the said revision application. The said letter reads thus :

“Please refer to your Revision Application dated 06.01.2022 submitted in the Ministry of Mines on 12.01.2022 and please find attached the said Revision Application (in original) alongwith the demand draft dated 13.12.2021 of Rs. 10,000/-. This Revision Application is returned to you as it is found late in submission for more than 2 years.

2. Therefore, the Revision Application dated 06.01.2022 alongwith the demand draft No.032623 of Rs. 10,000/- is returned in original.”

6 A perusal of Section 35 of the Minerals (Other Than Atomic And Hydrocarbons Energy Minerals) Concession Rules, 2016 shows that any person aggrieved by an order passed by the State Government can file a revision application before the Central Government. Proviso to Clause (2) of Rule 35 read thus :

“(2)

Provided that any such application may be entertained after the said period of three months if the applicant satisfies the Central Government that he had sufficient cause for not making the application within time.”

7 It is thus clear that an application seeking condonation of delay may be entertained after a period of three months is over, in filing the said revision application, if the applicant satisfies the Central Government that he had sufficient cause for not making the application in time. Although the

petitioners have filed an application seeking condonation of delay, the same was not considered by the said respondent-Authority and as such, the revision application was returned only on the premise that it was found late in submission for more than two years.

8 Learned counsel for the respondent No.1 does not dispute the fact that the application seeking condonation of delay is maintainable however, subject to the applicant showing the competent Authority that there was sufficient cause for condoning the said delay.

9 In this view of the matter, the impugned communication dated 14th February 2022 passed by the Under Secretary to the Government of India, Ministry and Mining, cannot be sustained. The same is quashed and set-aside. The matter is remitted back to the Authority. The respondent-Authority shall decide the delay condonation application of the petitioners, as expeditiously as possible, in accordance with law.

10 Rule is made absolute on the aforesaid terms. Petition is disposed of accordingly.

12 All concerned to act on the authenticated copy of this order.

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.