

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2189 OF 2021

Shivajirao Dhondu Bhamare .. Petitioner
Versus
Prakash Govind Deore & Ors. .. Respondents

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Mr.Anilkumar K. Patil for the Petitioner.

Mr.Ashok B. Tajane for the Respondent.

Mr.S.D.Rayrikar, AGP for the State.

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CORAM: RAVINDRA V. GHUGE, J.
DATED : 05th JANUARY, 2022

P.C:-

1. I have heard the learned counsel for the respective sides on the first contention put forth by the petitioner that the impugned order dated 09/11/2020, passed by the Hon'ble Minister in Revision Application No.401 of 2019, was without oral hearing and the contentions of the petitioner set out in his Revision Application, were merely reproduced. Since I found that the first ground raised by the petitioner needs to be considered, I have called upon the learned Advocates to refrain from making their submissions on the merits of the matter since it would be a wasteful exercise to consider the contentions on the merits.

2. The petitioner was before this Court in Writ Petition No.520 of 2020. The said petition was disposed off by this Court by an order dated 30/01/2020 vide which this Court directed the Revisional Authority to decide the pending Revision Application of the petitioner, filed on 11/07/2019, within a period of three months.

3. The following factors need to be considered while appreciating the contentions of the petitioner that he was unable to participate in the proceedings;-

- (a) A National lock-down was declared from 24/03/2020.
- (b) After the pandemic was contained to some extent, there was a gradual unlocking by the Government and the unlocking took place, in phases.
- (c) The hearing before the Hon'ble Minister was posted on 06/10/2020 during the lock-down.
- (d) The petitioner is a senior citizen, presently aged about 75 years and is a resident of Nashik.
- (e) Neither the petitioner nor his Advocate, who was from Mumbai, could participate in the hearing before the Hon'ble Minister.
- (f) The impugned order was delivered by the Hon'ble Minister on 09/11/2020 wherein the pleadings of the petitioner were reproduced.
- (g) It is reflected from the introductory paragraph of the impugned order that neither the petitioner nor his Advocate were present for the hearing.

4. The learned Advocate Shri Tajane representing the bank has vehemently submitted that the Hon'ble Minister was regularly hearing several matters. The authorised representative of the bank was also a senior citizen from Nashik, who participated in the proceedings. Shri Tajane himself had appeared before the Hon'ble Minister. As this Court had directed vide order dated 30/01/2020 that the proceedings should be expeditiously decided, the Hon'ble Minister was obliged to decide the said Revision Application and could not wait till the petitioner appeared before him. It was the second date of hearing and the petitioner was absent.

5. The submissions of Shri Tajane appear to be justified. A hearing, as is contemplated in law, was scheduled on 06/10/2020. The petitioner, due to the reasons assigned, was unable to participate in the hearing, either in his personal capacity or through his Advocate. The entire country was facing an unprecedented situation and in such a pandemic, to take a strict view in the matter would not be appropriate. There can be no debate that the lock-down continued upto January 2021 and it was only then, that there was a complete unlocking. The senior citizens with co-morbidities were vulnerable. This country has lost several of its worthy citizens, including doctors, lawyers, serving and retired Judges of the District Judiciary as well as the High Court, several police personnel, bureaucrats, press correspondents, Army men and even amongst the middle and lower middle class society.

6. In this fact situation, I am of the view that technicalities should not outweigh the merits and as the petitioner could not avail of the opportunity of hearing due to the unprecedented situation, it would be appropriate to grant him one opportunity. Nevertheless, reasonable costs can also be imposed upon the petitioner, though it does appear that he was prevented by circumstances from participating in the said proceedings.

7. In view of the above, this petition is partly allowed. The impugned order dated 09/11/2020 is quashed and set aside with the following directions :-

- (a) The petitioner shall deposit an amount of Rs.10,000/- with the respondent No.2-Bank at Nashik, on or before 31/01/2022.
- (b) Revision Application No.401 of 2019 stands restored to the file of the Hon'ble Minister.
- (c) Subject to the lock-down restrictions, the petitioner and respondent Nos.1, 2 and 3 shall appear before the Hon'ble Minister, Co-Operation and Textile Marketing, on 07/02/2022 at 2.00 p.m. The petitioner may appear in person and/or through a legal representative, without seeking any adjournment.
- (d) No notice is required to be issued by the office of the Hon'ble Minister.

- (e) Written notes of submissions as well as compilation of case law can be tendered before the Hon'ble Minister on 07/02/2022.
- (f) The Hon'ble Minister would conclude the hearing by 08/02/2022, in the event the hearing is not concluded on 07/02/2022.
- (g) The Hon'ble Minister would pronounce his order on 28/02/2022 at 3.00 p.m. and the copies of the order would be kept ready, to be supplied to the respective sides by following the due procedure.
- (h) In the event of a lock-down being imposed and the hearing on 07/02/2022 is not possible, liberty is granted to the litigating sides to approach this Court by filing an interim application for seeking rescheduling of the hearing.
- (i) Until 28/02/2022, there shall be no adverse action against the petitioner.

(RAVINDRA V. GHUGE, J.)