

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

**INTERIM APPLICATION NO. 145 OF 2022
IN
REVIEW PETITION ST. NO. 23045 OF 2021
IN
WRIT PETITION NO. 5488 OF 2011
WITH
REVIEW PETITION ST. NO. 23045 OF 2021**

Prakash Dayanand Rendalkar .. Applicant
(Org. Resp. No.3)

In the matter between:

Prakash Dayanand Rendalkar .. Petitioner
(Org. Resp. No.3)

Vs.

**The Government of Maharashtra
& Ors.** .. Respondents

Mr. Vishal Kanade i/by Mr. Kunal Nawale for applicant/ review petitioner.

Mr. B. V. Samant, AGP for State.

Mr. Suresh Dhole for respondent no.3/writ petitioner.

**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- JANUARY 18, 2022

PC:

1. Interim Application No. 145 of 2022 is an application for condonation of delay in presentation of Review Petition St. No. 23045 of 2021. It is an application for review of the judgment and order dated 11th August, 2021, whereby Writ Petition No. 5488 of 2011 (Sadashiv Santaram Survase vs. Government of

Maharashtra & Ors.) was allowed by us. The ground on which review has been urged is that the applicant/review petitioner was not put on notice prior to circulation of the writ petition for final hearing being sought for by the writ petitioner.

2. While hearing the application for condonation of delay, we had the occasion to look into the pleadings. Paragraphs 3 and 4 of the application read as follows: -

“4. It is humbly submitted that the Applicant got to know about the impugned order from the Desk Officer of his department in Mantralaya, Mumbai. On receipt of the aforesaid information it was verified from the website of this Hon’ble Court.

5. It is submitted that after going through the order, the Applicant was contemplating whether to approach the Hon’ble Apex Court or file Review Petition. Eventually, the Applicant sought advice of his Advocate whether to approach the Hon’ble Supreme Court or file Review Petition before this Hon’ble Court. A conscious decision was taken to file Review Petition before this Hon’ble Court as he has good case on merits. Accordingly steps were taken to arrange for necessary documents and certified copy of the impugned order which took some time.”

3. Bare reading of the aforesaid paragraphs would reveal absence of mention of the relevant dates as to when the review petitioner derived knowledge of the judgment and order dated 11th August, 2021, when he sought advice of his advocate and thereafter, as to when exactly a decision was taken by him to

apply for review. The length of delay is immaterial; what is relevant is the explanation offered. We are not persuaded to hold, on the basis of such pleadings, that sufficient cause has been shown for condonation of delay. The review petitioner is, thus, not entitled to exercise of discretion in his favour.

4. That apart, on perusal of the judgment and order under review, we find that the reply-affidavit filed by the review petitioner was duly taken into consideration and it was observed that by reason of subsequent promotions the issue of seniority had become academic. It was thereafter that the judgment and order of the Tribunal impugned in the writ petition was directed not to be acted upon in the event an occasion in future arises of any conflict of seniority between the writ petitioner and the respondent no.3 (review petitioner). Any error apparent on the face of the record of the judgment and order under review has not been shown by the review petitioner.

5. In such circumstances, we are not inclined to grant the prayer of the review petitioner either for condonation of delay as well as for review of the judgment and order dated 11th August, 2021.

6. Consequently, the interim application for condonation of delay as well as the review petition stands dismissed. No costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)