

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

**CIVIL APPLICATION NO.13247 OF 2017
IN FAST/18809/2017**

PANDIT SATWAJI KAMBLE

VERSUS

**THE EX. ENGINEER, L.D.P.D. SELU, NOW EX. ENGINEER, IRRI.
DIV. JALNA AND ORS**

....

Mr. V. M. Hunbe, Advocate for applicant

Ms Chaitali Chaudhari, Advocate for respondent No.1

Mr S. B. Yawalkar, AGP for respondent Nos. 2 and 3

....

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 23.02.2023

PER COURT :-

Heard.

2. The present application is filed seeking condonation of delay of 160 days caused in filing the appeal.

3. Learned Advocate Ms Chaitali Chaudhari appearing for respondent No.1 vehemently opposed the application. She submits that though appeal along with application has been filed in the year 2017, no attempts are made to circulate before the Court till this date. The applicant cannot take benefit of his own lapse. He would not be entitle to claim interest for the delayed

period. She relies upon the order passed by this Court in Civil Application No. 1323/2020 in First Appeal Stamp No.486/2020 (*Punjaram Bhimrao Borade Vs. The State of Maharashtra and others*), and points out that in similar circumstances, this Court condoned the delay with the rider that the claimant would not be entitled for the interest for the period of delay as well as the delay in circulating the matter before the Court.

4. On perusal of the order passed in Civil Application No.1323/2020, it appears that this Court has passed the order directing that the claimant would not be entitled for interest for the period of delay caused in filing appeal which was more than five years. In the present case, there is delay of merely 160 days which has been properly explained. The order of this Court referred supra is passed in reference to peculiar facts.

5. The another order relied upon by the learned Advocate for respondent No.1 is passed in Civil Application No.14045/2017 in First Appeal Stamp No. 8062/2017 (*Bhanudas Ravan Magar Vs. The State of Maharashtra and others*) dated 06.10.2021. It shows that this Court has refused to grant interest for the period from date of filing of the civil application till getting it circulated before this Court.

On perusal of the said order, it appears that considering the delay of more than 1774 days caused in filing application, such triggers are applied.

6. Learned counsel for respondent No.1 further relies upon the order passed by this Court in Civil Application No. 5157/2020 in First Appeal Stamp No. 8511/2019 (*Pandurang Dodhu Dhekale Vs. Collector, Jalgaon and others*), wherein this Court has put a condition that the applicant would not be entitled for interest for the delayed period as well as for the period of delay in circulating the matter.

7. In the present case, the delay is merely 160 days. Further considering the large pendency of the matters, the parties cannot be blamed for not circulating the same before the Court, when this Court is not in position to list matters on regular basis.

8. In view of these observations the civil application is allowed. Delay caused in filing the appeal is condoned.

9. Appeal be registered.

[S. G. CHAPALGAONKAR, J.]

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