

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1572/2023

Namdeo s/o Dharma Rathod

...Versus...

The State of Maharashtra, Through Collector, Yavatmal, Tah. & District –
Yavatmal and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri V.N. Patre, Advocate for petitioner
Ms Tajwar Khan, AGP for respondent no.1 and 3/State

CORAM : AVINASH G. GHAROTE, J.

DATE : 15/03/2023

1. Heard Shri V.N. Patre, learned counsel for the petitioner and Ms. Tajwar Khan, learned Assistant Government Pleader for the respondent nos.1 and 3/State.
2. The petition challenges the judgment dated 02/04/2011, passed by the learned Reference Court in Reference Case No.58/2005 and other connected matters, holding that though sufficient opportunities were granted to the petitioners, they have failed to adduce evidence in the reference proceedings.
3. Shri V.N. Patre, learned counsel for the petitioner submits that the counsel, who was handling the proceedings, had not informed him that the matter was fixed for adducing

evidence and therefore, the reference came to be dismissed. He submits that for the fault of the counsel, the petitioner should not be penalized.

4. Had the matter rested there perhaps, I would have interfered, however, the record indicates that despite the dismissal of the reference by the judgment dated 02/04/2011, no steps were taken by the petitioner, till 2018, when the petition was filed before this Court on 20/03/2018, which is a period of more than 6 years. The initial award has been passed in the year 2002, which was challenged in the reference. Merely because proceedings have been entrusted to the counsel, that does not absolve the petitioner from his duty to take care and ensure that the proceedings are prosecuted properly, for which purpose, regular visits to the counsel or communication with him is necessary. In the instant case, the abject apathy of the petitioner is evident from the fact that the reference proceedings came to be dismissed on account of his failing to adduce any evidence and even after the dismissal of the reference in the year 2011 till 20/03/2018, no steps were taken. Considering this position, I am not inclined to interfere in the impugned judgment on account of the delay and laches which have occurred. The writ petition is, therefore, dismissed. No order as to costs.