

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

Writ Petition No.8612 of 2018

Sanyog Bangles through its Proprietor Suryakant S/o Ramprakash Jaiswal and anr.
Vs. State of Maharashtra thr. Its Secretary Department of Cooperation and others

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

Court's or Judge's Order

Shri R.J. Mirza, Advocate for the Petitioner/s
Ms H.N. Jaipurkar, AGP for the Respondent/State
Shri R.D. Karode, Advocate for the respondent No.3

**CORAM : ANIL S. KILOR, J.
DATED : 26.07.2023**

1. Heard.
2. This matter pertains to Recovery Certificate issued by the Deputy Registrar Co-operative Societies, Akola/Respondent No.2 under section 101 of the Maharashtra Co-operative Societies Act, 1960 (for short "the Act of 1960"). A challenge is raised mainly on the ground that, a hearing was conducted on 29.09.2015, but the Recovery Certificate was issued on 29.03.2017 i.e. after 18 months and therefore, the Recovery Certificate vitiates.
3. The Division Bench of this Court in the case of *Shivsagar Veg Restaurant Vs. Asstt. Commissioner of Income Tax*¹, has observed thus:

"11. Having said so, the inordinate unexplained delay in pronouncement of the impugned judgment has also rendered it vulnerable.

¹ 2008(232)ELT780(Bom.)

12. *The learned counsel for the appellant has referred to various judgments of the Apex Court as well as of this Court and various other High Courts to show that only on the ground of delay in rendering the judgment for period ranging from four months to 10 months, judgments were held to be bad in law and set aside. It has been held time and again that justice should not only be done but should appear to have been done and that justice delayed is justice denied. Justice withheld is even worse than that. The Apex Court in the case of Madhav Hayawadanrao Hoskot v. State of Maharashtra, MANU/SC/0119/1978 : 1978 CriLJ1678 had an occasion to take serious note of the prejudice normally caused to the litigant due to delayed delivery or pronouncement of the judgment for the reasons which are not attributable either to the litigant or to the State or to the legal profession.*

13. *In R.C. Shama v. Union of India, 1976 (3) SCC 474, the Apex Court after noticing absence of the provision in the Code of Civil Procedure in the matter of time frame in delivery of judgment, observed as under :*

"Nevertheless, we think that unreasonable delay between hearing of arguments and delivery of a judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable even where written arguments are submitted. It is not unlikely that some points which the litigant considers important may have escaped notice. But, what is more important is that litigants must have complete confidence in the results of litigation. This confidence tends to be shaken if there is excessive delay between hearing of arguments and delivery of judgments. Justice, as we have often observed, must not only be done but must manifestly appear to be done."

14. *Recently, the Apex Court in the case of Anil Rai v. State of Bihar, has also reconsidered the serious issue of delayed delivery of judgment by some of the High Courts and laid down certain guide-lines in the matter of pronouncement of judgments by the High Courts.*

15. *In the case of Devang Rasiklal Vora v. Union of India, MANU/MH/0640/2003 : 2003ECR658(Bombay), the Division Bench of this Court to which one of us is a party (Daga, J.) had an occasion to issue directions to the President of the Central Excise and Gold (Control) Appellate Tribunal,*

Mumbai to frame and lay down the guide-lines on the similar lines as were laid down by the Apex Court in the case of Anil Rai v. State of Bihar (supra) and to issue appropriate administrative directions to all the Benches of the said Tribunal. The similar guide-lines can conveniently be laid down for the courts, tribunals and quasi-judicial authorities prescribed under the Income Tax Act, 1960 ("Act" for short) so as to prevent delayed delivery of the judgment and/or order which at the end of the day results in denial of justice as happened in the instant case."

4. Similarly, in the case of *Infra EMCO Ltd. Vs. Union of India*², has observed thus:

"7. We have not relegated the Petitioner to the alternate remedy of filing an appeal under the Act, as we find that the impugned order is against the parameters laid down by this Court in Shivsagar Veg. Restaurant (supra).

8. In the aforesaid circumstances, we set aside the impugned order dated 31 July 2013 and direct the Additional Commissioner of Central Excise and Customs to pass a fresh order after granting the Petitioner an opportunity of personal hearing. Needless to add that the resultant adjudication order would be passed within a reasonable time after the conclusion of the hearing granted to the Petitioner. ..."

5. From the above referred judgments it is evident that unreasonable delay between hearing of arguments and delivery of a judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable even where written arguments are submitted. It is not unlikely that some points which the litigant considers important may have escaped notice. But, what is more important is that litigants must have complete confidence in the results of litigation. This confidence tends to be

2 2015(319)ELT28(Bom.)

shaken if there is excessive delay between hearing of arguments and delivery of judgments.

6. In that view of the matter, I am of the opinion that without going into the merits of the matter as the Recovery Certificate vitiates on the ground of delay in delivery of judgment, the matter needs to be remanded back to the Deputy Registrar Co-operative Societies, Akola for deciding the same afresh, after hearing the parties. Accordingly, I pass the following order:

- (i) The writ petition is partly **allowed**.
- (ii) The order dated 29.03.2017 passed by the Deputy Registrar Co-operative Societies, Akola under Section 101 of the Act of 1960, is hereby quashed and set aside.
- (iii) The matter is remanded back to the Deputy Registrar Co-operative Societies, Akola to decide the same afresh, after hearing both the parties.

All the points kept open.

[ANIL S. KILOR, J.]