



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 WRIT PETITION NO. 1445 OF 2024

SAMPADA NAGARI SAHAKARI PATSANSTHA LTD THROUGH
ITS LIQUIDATOR

VERSUS

THE DIVISIONAL JOINT REGISTRAR AND OTHERS

...

Advocate for the Petitioner : Mr. Dighe Vitthal Haribhau.

AGP for Respondents-State : Mrs. M. L. Sangit.

Advocate for Respondent No.2 : Mr. Rahul A. Tambe.

...

CORAM : S. G. MEHARE, J.

DATE : 28.03.2024

PER COURT :-

1. Heard the learned counsel for the petitioner, learned counsel for contesting respondent No.2 and the learned AGP for respondents-State.

2. A small issue involved in this case is that an application for condonation of delay of 13 years was decided without following the mandatory provisions of law by depositing 50% of the amount of the certificate at the time of filing of the revision. The said order was impugned in Writ Petition No.6342 of 2023. The said writ petition was allowed and the order of condonation of delay was quashed and set aside with direction to contesting respondent No.2 to deposit 50% of the

amount as per the statutory requirement. Respondent No.2 complied with the said order. Then, the matter proceeded ahead. However, both parties agreed that the revisional authority without passing any fresh orders on delay condonation application directly decide the revision on merit.

3. Learned counsel for the petitioner submits that unless the delay condonation application decided, the revisional authority cannot pass the order on merits. *Prima facie*, the impugned order is passed without passing order on the application for condonation of delay. It is a material irregularity. The authority has to take the decision first on delay condonation application. Since it has not been done, the impugned order is bad in the eyes of law. Hence, the following order :

ORDER

- (i) Writ Petition is allowed.
- (ii) The impugned order of respondent No.1 passed in Revision Application No.96 of 2023, dated 12.12.2023 is quashed and set aside.
- (iii) Respondent No.1 is directed to decide the delay condonation application first and then decide the revision on merit by granting hearing to all the respective parties.

- (iv) Writ Petition stands disposed of in above terms.
- (v) Respondent No.1 shall also decide any other interim application filed along with delay condonation application within a month from today.
- (vi) Both parties to appear before respondent No.1 on 15.04.2024.
- (vii) In the meantime, the petitioner shall not take any coercive action against respondent No.2.

(S. G. MEHARE, J.)

...

vmk/-