



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2830 OF 2024

MS MARUTI MILK PRODUCTS INDIA LTD THROUGH ITS CHAIRMAN
RAMESH NAMDEORAO BIRADAR

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE DISTRICT COLLECTOR
AND OTHERS

Mr. A. S. Deshpande, Advocate for the petitioner

Mrs. R. R. Tandale, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 14th JUNE, 2024

PER COURT :-

1. Heard. By consent of both sides, heard finally at the stage of admission.
2. The petitioner, the plaintiff in original suit being RCS No. 745 of 2005 and respondent in First Appeal, is aggrieved by the order of condonation of delay passed by the learned District Court condoning delay of 280 days in filing the appeal against the judgment and decree passed by the Trial Court, has preferred this petition.
3. At the outset learned counsel for the petitioner makes fair statement that he is not arguing on the point of length of the delay caused in preferring the appeal, however, according to him there is absolutely no reason or justification put forth by the respondent herein

for condonation thereof. It is his submission that unless there is justified reason for the condonation of delay it would not be open for the Court to condone the same. He drew attention of the Court to the paragraph 3 of the application made before the District Court which according to him does not disclose any reason muchless sufficient for the condonation of delay. It is submitted that no vague averments are made in the application without any evidence being placed on record to substantiate the same. To support his submissions he placed reliance on the judgment in case of ***Gopal Laxman Rajendra Vs. The Municipal Corporation of City of Nashik and Ors., 2021(6) All MR 323***. He drew attention of the Court to paragraph 8 and 9 of the judgment to support his submission which reads thus:

8. Absence of "sufficient cause" contemplated under Section 5 of the Limitation Act would cast a burden upon the party, who approaches the court seeking condonation of delay. The distinction between the party being a Government Department or a Government itself and a private litigant cannot be made out and though the courts are expected to take a liberal view in condoning the delay, the least expected is that the State shall come up with some plausible or satisfactory explanation which, surely should fall short of negligence or lethargy on part of the Department or its officers

9. When the present application is perused by which the respondent-Corporation has sought condonation of delay, it just depicts a perfunctory approach of the officers of the Department with an assumption that merely throwing an excuse that delay has been accounted on part of administrative reason, the court is likely to be condone the delay. The explanation, which is tendered in paragraph 3,

does not even make an attempt to explain the delay, but the reason stated is that there was a transfer of an officer and the post was vacant for a long time and the work was looked after by some other in-charge officer. The Government and its authorities must be treated as any other ordinary litigant and the due diligence on the part of the individuals to approach the court would apply with equal force to the Government and its officers. The habit of awakening out of slumber, one fine hour of the day and throwing jargon of scanty reason justifying the delay must be discouraged and, particularly, when the Government and its officers are in lis with its own citizens, since it is the fundamental duty of the State to protect the rights of the citizens. Such a callous approach on part of the Government and its officers has to be deprecated.”

5. Learned AGP supported the impugned order.

6. There cannot be any dispute made with regard to the proposition sought to be canvassed by the learned counsel for the petitioner that there has to be justified reason and explanation for condonation of delay. Perusal of the application filed before the District Court indicates that there is specific averment made with regard to the delay caused in seeking permission of the authorities concerned for sanctioned to the filing of the appeal. Apart from this, it is specifically averred therein that immediately thereafter there was on set of Covid-19 pandemic. Needless to say that the entire government machinery was involved in taking the said unprecedented situation faced by entire test humanity. These are extra ordinary circumstances, which cannot be ignored. In the peculiar facts of the case judgments cited supra by the

learned counsel for the petitioner would not come to his aid. The delay in preferring the appeal is not inordinate. No malafides can be attributed to the respondent in not preferring the appeal in time. The petitioner has also not shown any prejudice or irreparable loss is caused to him by filing of the appeal belatedly. There is nothing on record to indicate that the situation/ position of the petitioner has changed irreversibly, on account of non filing of the appeal within time.

7. In view of this, this Court finds no perversity in the impugned order. Hence petition stands dismissed.

(R. M. JOSHI, J.)

ssp