



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

**37 CIVIL APPLICATION NO. 9576 OF 2019
IN ARBAST/21486/2019
WITH
ARBITRATION APPEAL STAMP NO.21486 OF 2019**

**M/S HARBHAJAN SARABJIT AND ASSOCIATES,
ENGINEERS AND CONTRACTORS, AURANGABAD T/H
ITS PARTNER H. SIN**

**VERSUS
THE GOVERNMENT OF MAHARASHTRA, WATER
RESOURCES DEPARTMENT, THROUGH THE
EXECUTIVE ENGINEER & ANOTHER**

...
Advocate for Applicant : Adv.Gorakhnath Kendre h/f.
Mr.J.M.Murkute

Advocate for Respondent no.1 : Mr.B.R.Survase

...
**CORAM : ARUN R. PEDNEKER, J.
DATE : 12.02.2024**

P.C. :

1] The present Civil Application is filed to condone the delay of 11 days in filing Arbitration Appeal. The applicant has mentioned the grounds on which delay has been caused. Para nos.4 to 6 of the application is as under :

4) That, the applicant submits that, on 10/07/2019 the applicant through Advocate filed application for certified copy of Judgment and Order dated 05/04/2019. The copy was received on 11/07/2019.

5) That, the applicant submits that, the Arbitration Appeal should have been filed

within a period of 90 days, from the date of Judgment and Order i.e. 05/04/2019 there is a delay of 10 days, but from the date of signing of Judgment by the Presiding Officer the Appeal is within limitation.

The Judgment and Order was signed by the Presiding Officer on 11/04/2019, therefore the limitation starts from 12/04/2019 the period of 90 days will come to an end on 10/07/2019, the applicant filed application for certified copy of Judgment and Order on 10/07/2019, the certified copy was received on 11/07/2019, the applicant will get two days of copying, on 13/07/2019 there was Saturday, on 14/07/2019 there was Sunday, the Appeal is filed on 15/07/2019 as per this calculations of the applicant the Appeal is within limitation.

6) That, the applicant submits that, the Office did not accept the above stated calculation of days counting for limitation from 12/04/2019 onwards, but Office calculated days from 05/04/2019, therefore the delay of 9 days has been caused in filing of this Appeal as the applicant calculated 90 days from the date of signing of Judgment by the Presiding Officer i.e. from 11/04/2019, as the same certificate was displayed on website of the District Court Nanded.

Therefore, the delay of 9 days has been caused for filing this Appeal which is not intentional and deliberate caused due to above stated bonafide reasons, in the interest of justice same may kindly be condoned and Office may kindly be directed to register the Appeal.

2] The learned counsel for the applicant submits that for the above stated reasons, there is delay of 9 days in

filing the Arbitration Appeal and the same is not intentional and deliberate act. It is submitted that the judgment and order was signed by the Presiding Officer on 11.04.2019, therefore, the limitation starts from 12.04.2019, the period of 90 days will come to an end on 10.07.2019. The applicant filed an application for certified copy of judgment and order dated 10.07.2019. The certified copy was received on 11.07.2019. The applicant will get two days of copying. On 13.07.2019 and 14.07.2019, there were Saturday & Sunday i.e. court holidays. The appeal is filed on 15.07.2019. However, the office did not accept the above stated calculation counting of days for limitation from 12.04.2019 onwards but office calculated the days from 05.04.2019. Therefore, 9 days delay has been caused in filing the Arbitration Appeal and the same may be condoned in the interest of justice.

3] The learned counsel for the respondent has not seriously objected to allow the present Civil Application.

4] For the reasons stated in the Civil Application, the same is allowed. Delay is condoned. Appeal be registered. Civil Application is disposed of accordingly.

5] Arbitration Appeal is **admitted**. On admission, Mr.B.R.Survase, learned counsel waives notice for respondent no.1.

6] Call R. & P.

7] The learned counsel for the respondent no. 1 submits that he has instruction to file cross objection in the matter.

[ARUN R. PEDNEKER]
JUDGE

DDC