



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 13466 OF 2019
IN
REVIEW APPLICATION (ST) NO. 29174 OF 2019
IN
LETTERS PATENT APPEAL NO. 159 OF 2012

Shreeram Sakharam Khandare

..APPLICANT

VERSUS

The Secretary,
Vijay Shikshan Prasarak Mandal,
Aurangabad and Others

..RESPONDENTS

....
Mr. S.R. Kolhare, Advocate for applicant
Mr. M.V. Navandar, Advocate for respondent no.3
....

CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ
DATE : 23rd AUGUST, 2024

PER COURT :

1. This is an application for condonation of delay of 2546 days in preferring the review application for recalling order dated 28th August, 2012 passed in Letters Patent Appeal No. 159 of 2012.
2. Heard learned counsel for the applicant and learned counsel for Respondent No.3. Perused the application.
3. The applicant has raised following grounds for condonation of delay :-

“1. That, the applicant has filed review application / petition is filed for seeking or review of the order dated 28th August 2012, passed by this Court (Division Bench), in L.P.A. No. 159 of 2012, challenging the judgment and order dated 4th November 2011 passed by this Hon'ble High Court (Single Bench), which is delayed by 2546 days.

2. That, That, after passing the order by the Division Bench of this Hon'ble High Court, the Applicant has filed Application before the Law and Judiciary Department Mantralaya.

3. That, the Law and Judiciary Department, vide it's letter dated 12th November 2012, has forwarded the Application to the Registry of this High Court. A Copy of letter dated 12th November 2012, is annexed herewith and marked as EXHIBIT-C-1.

4. That, the Registry of this Hon'ble High Court, vide it's communication dated 8th May 2013, has directed the Applicant to file Appropriate proceedings as the communication send by post shall not be admitted as Writ Application. A Copy of communication dated 8th May 2013, is annexed herewith and marked as EXHIBIT C-2.

6. That, after the receipt of this communication dated 8th May 2013, the Applicant has received Vital documents from the University on 5th August 2013 under the Right of Information regarding the Approval of Petitioner, which is the root of the issue involved in the matter, immediately after the receipt of the said communication the Applicant has Approached this Hon'ble High Court by invoking Review Jurisdiction in Writ Petition No 106 of 2011 on 29th August 2013 along with delay Application, which came to be registered as review Application bearing st No of 2013. Copies of Postal Communications along with Letter dated 31st July 2013 and Letter dated 2/8th March 2006 are annexed herewith and marked as EXHIBIT C-3. Colly.

7. That, on the registration of Review Application along with delay Application came to be refused, therefore, the Applicant has filed Civil Application No.5485 of 2018, which came to be allowed by this Court on subject to the cost of Rs 5000=00, thereafter,

after depositing the cost of Rs. 5000=00, the Review Application is registered and it is numbered as 45 of 2019. A Copy of order dated 27-7-2018 is annexed herewith and marked as EXHIBIT C-4.

8. That, on 18th March 2017, the Applicant has received vital information form the University in respect of similarly placed teacher, in respect the advertisement was published for S.T Category for the Post of S.C Category and Appointed on Contractual basis and considering the Post is meant for S.C Category the University has granted permanent Approval vide Approval order dated 5th November 2011, after receipt of the said documents the Applicant has filed Civil Application bearing No 5484 of 2018, in the Month of April 2017, in the Review Application bearing No 45 of 2019.

9. That, on 5th January 2018, the Applicant has received the vital documents, which is root of the issue involved in the matter i.e Certified copy of verified roaster by commissioner of B. C. Cell under the right of information Act, which clearly shows that, the there is not single post is available for S,T Category and post is occupied by the Applicant is for S.C Category, therefore, the Applicant immediately after receipt of the Vital documents i.e certified Copy of roaster has filed Civil Application bearing No 5483 of 2018, in the Month of February 2018.

10. That, on 19th July 2019, the review Application filed by the Applicant has been dismissed by this court, by holding that the Applicant has filed L.P.A No 159 of 2012, before this Court and which came to be dismissed on 28th August 2012, therefore, the Review is not maintainable. A Copy of the order dated 19th July 2019, is annexed herewith and marked as EXHIBIT -C-5.”

4. Following aspects are not in dispute :-

- University Tribunal dismissed Appeal/BAMU/07/2010 on 01/12/2010.
- WP/106/2011 was filed before Hon'ble High Court on 20/12/2010.
- WP/106/2011 was dismissed on merits on 24/11/2011.

- LPA/159/2012 was filed on 19/12/2011
- LPA/159/2012 was dismissed on 28/08/2012.
- RAST/29174/2019 was filed on 16/09/2019 (D.B.)
- CA/5485/2018 IN RC/303/2014 was filed for restoration against the order dt. 17/02/2015.
- CA/5485/2018 in RC/303/2014 was allowed subject to cost on 27/07/2018.
- CA/13466/2019 filed on 16/09/2019 in CPA/159/2012 (for delay of 6 yrs, 11 months & 18 days) but wrongly mentioned as LPA/7850/2012.
- CA/5484/2018 IN RA/45/2019 (S.J.) with CA/5483/2018 in RA/45/2019 was filed on 27/04/2017
- CA/5484/2018 & CA/5483/2018 in RA/45/2019 was dismissed on 19/07/2019

5. Considering the above undisputed aspects, the aforementioned grounds cannot be said to be sufficient to condone the said exorbitant delay. In view of the same, in our considered view no case is made out to condone the aforesaid delay. Hence, the following order :-

Civil Application is rejected.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

SSD