



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

28 CIVIL APPLICATION NO. 13765 OF 2021
IN FAST/30418/2021

BABAN VITHHAL BHOPE
VERSUS
THE TAHASILDAR, SHINDKHEDA AND ORS

...
Advocate for Applicant : Mr. Waramaa B.R.
AGP for Respondents/State : Mr. V.M.Chate
...

CORAM : KISHORE C. SANT, J.

DATE : 29th JULY, 2024.

PER COURT :

1. This application is for condonation of delay of 1156 days caused in filing the appeal.
2. The challenge is to the judgment and award passed by the learned Commissioner under the Employees Compensation Act/ Labour Court, Dhule.
3. It is stated in the application that some time was taken in judicial proceeding. The applicant had challenged the

notice issued to him by the executing Court for execution. The application arising in very peculiar circumstances.

4. The applicant at the time was working as Tahsildar at Shindkheda. The vehicle belonging to Government standing in the name of Tahsildar, which involved in an accident, wherein, the driver driving the vehicle died.

5. The Claimants have filed application under the Employees Compensation Act by joining the Tahsildar as party.

6. Learned Commissioner allowed the plea by judgment and order dated 18.07.2018 directing the respondent Tahsildar to pay compensation of Rs. 6,59,850/- along with interest @ 12% p.a.

7. The Claimants have filed a execution. In the execution the learned Collector took a stand that the vehicle is standing in the name of the learned Tahsildar, therefore, the amount be recover from the learned Tahsildar.

8. The learned Commissioner therefore, issued notice to the present appellant in his personal capacity. It is thereafter, the applicant approached this Court by filing a Writ Petition bearing No. 8447 of 2021.

9. This Court has disposed off the said Writ Petition stating that there is an alternate remedy available. It is thereafter, the applicant has filed this appeal. The delay is caused for the reasons aforesaid. There is no deliberate intention to cause delay. The applicant therefore, prays for allowing the application.

10. The application is vehemently opposed by the learned AGP. He submits that the claim itself was filed against the learned Tahsildar, Sindkheda. There was no question of the learned Collector satisfying the award.

11. The learned Tahsildar was aware since beginning that a ward is against the Tahsildar and as such, he ought to have approached this Court by way of appeal immediately against the impugned judgment.

12. When the vehicle is standing in the name of learned Tahsildar, it is clear that the vehicle is a Government vehicle and not an individual capacity or personal vehicle of the Tahsildar. The applicant was therefore right in not preferring the appeal immediately. It is only after it became clear that he is made party in personal capacity in execution he decided to file the appeal.

13. This Court prima-facie finds that the Government has not filed an appeal and the appeal is in personal capacity. Delay cannot be attributed to him. This Court is therefore, inclined to allow the application. Hence the following order :

ORDER

- a) The Civil Application stands allowed and disposed off.
- b) Delay of 1156 days caused in filing appeal stands condoned.
- c) The office to register the appeal.

(KISHORE C. SANT)
JUDGE