



-2946-2023

1

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION (F) NO. 2946 OF 2023
IN FIRST APPEAL ST. NO. 1102 OF 2023

(Vidarbha Irrigation Development Corporation Vs. Shri Sanjay Padmakar Gawande & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri R.S. Bhoyar h/f Shri A.J. Gohokar, Counsel for the
applicant/appellant.

Shri A.S. Kashte, Counsel for respondent no.1.

Shri S.C. Joshi, A.G.P. for respondent nos. 2 and 3.

.....

CORAM : ANIL L. PANSARE, J.
FEBRUARY 14, 2024.

On previous date, the following order was
passed :

"Heard.

2. *Delay of 250 days is sought to be condoned on the ground that the reference court has on 14.02.2020 passed the judgment and award. Learned counsel applied for the certified copy on 06.03.2020. Copy was ready on 09.08.2020 and received on 03.07.2020.*

3. *There is, thus, no explanation as to why application for certified copy was not filed immediately on or after 14.02.2020 nor is there any explanation as to why certified copy was not collected from 09.06.2020 till 03.07.2020. The other ground indicates administrative exigency.*

4. *As could be seen, the reasons do not really justify the delay that has occurred till the application has been filed, viz. 13.01.2023.*

5. *The attention of the learned Counsel was invited to the judgment passed by the Hon'ble Supreme Court in the case of State of Madhya Pradesh And Others Vs. Bherulal*

reported in (2020) 10 SCC 654, wherein the Supreme Court has held that law of limitation undoubtedly binds everybody including the Government and deprecated the practice of keeping the file pending for several months on the ground of administrative exigencies.

6. *The ground of administrative difficulty have to be dealt with in terms of Section 10 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005 (for short “the Act of 2005”), which reads thus :*

“10. (1) Every Government servant shall be bound to discharge his official duties and the official work assigned or pertaining to him most diligently and as expeditiously as feasible :

Provided that, normally no file shall remain pending with any Government servant in the Department or Office for more than seven working days :

Provided further that, immediate and urgent files shall be disposed of as per the urgency of the matter, as expeditiously as possible, and preferably the immediate file in one day or next day morning and the urgent file in four days :

Provided also that, in respect of the files not required to be referred to any other Department, the concerned Department shall take the decision and necessary action in the matter within forty-five days and in respect of files required to be referred to any other Department, decision and necessary action shall be taken within three months.

(2) Any wilful or intentional delay or negligence in the discharge of official duties or in carrying out the official work assigned or pertaining to such Government servant shall amount to dereliction of official duties and shall make such Government servant liable for appropriate 1. [disciplinary action under the All India Services (Discipline and Appeal) Rules,

1969, the] Maharashtra Civil Services (Discipline and Appeal) Rules, 1979 or any other relevant disciplinary rules applicable to such employee.

(3) The concerned competent authority on noticing or being brought to its notice any such dereliction of duties on the part of any Government servant, after satisfying itself about such dereliction on the part of such Government servant shall, take appropriate disciplinary action against such defaulting Government servant under the relevant disciplinary rules including taking entry relating to such dereliction of duty in the Annual Confidential Report of such Government servant.”

7. As could be seen, sub-section (1) of Section 10 of the Act of 2005 provides that every Government servant shall discharge his official duties assigned or pertaining to him most diligently and expeditiously and that no file shall remain pending with any Government servant in the department, usually for more than seven working days. Thus, additional time taken will have to be properly justified. In addition, Rules 10 to 13 of the Maharashtra Prevention of Delay in Discharge of Official Duties Rules, 2013 (for short “the Rules of 2013) provides for detailed mechanism to prevent/avoid delay. Despite such a provision and several judgments of the Supreme Court deprecating casual approach in processing files, there is no improvement.

8. There is a reason for the same and the reason is not taking action, provided under sub-sections (2) and (3) of Section 10. It is unfortunate that the effect of sub-section (1) of Section 10 has been neutralized by not taking recourse to sub-sections (2) and (3) of Section 10. Resultantly, the casual approach of Government servants continue.

9. *Accordingly, the applicant is directed to give details of the officials along with time taken by each official to process the file, which should include name of the official, time when the file was received, time taken to process the file and reasons for delay in processing the file, etc. so that appropriate orders could be passed. The applicant shall also state the amount of interest (15%) which the public exchequers will have to bear because of such delay, i.e., 250 days, if the appeal is ultimately dismissed. In other words, the applicant will mention the amount of interest which could have been saved by discharging duty in terms of Section 10 of the Act of 2005 and the Rules of 2013. The details be furnished on affidavit before the next date. Hopefully time will not be sought to furnish these details also. Parties to act upon authenticated copy of the order.*

10. *Stand over to 14.02.2024.”*

2] Despite such order, the learned Counsel for the applicant/appellant is seeking time to file details. Thus, the casual and negligent approach of the Officers of the applicant - V.I.D.C. continues.

3] In addition to above, the tendency of taking Courts for granted is also reflected by not paying attention to order dated 7/10/2023 passed by this Court by which the award impugned was stayed subject to depositing entire amount of compensation within ten weeks. The applicant has neither deposited the amount nor sought extension of time to deposit the amount. The Court is therefore left with no other option but to clarify that stay does not operate. Respondent no.1 is therefore at liberty to take appropriate steps for execution of judgment and award dated 14/2/2020 passed by 4th Joint

Civil Judge Senior Division, Yavatmal in L.A.C. No. 531/2015.

4] Considering the conduct of the Officers of the applicant, as noted above, stringent action will have to be taken if orders passed by this Court are not complied with due diligence.

5] Accordingly, two weeks time is granted to comply order dated 31/1/2024 failing which the application seeking condonation of delay shall stand rejected without further reference to the Court.

6] Stand over to 29/2/2024.

7] The learned Counsel for the applicant shall serve copy of order upon the appointing authority of the Executive Engineer, who is responsible for non-compliance of order and who are responsible for delay in filing appeal, for taking appropriate action in terms of Section 10 of the Maharashtra Government Servants Regulation of Transfers and Prevention of Delay in Discharge of Official Duties Act, 2005.

(ANIL L. PANSARE, J.)

Sumit