



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

WRIT PETITION NO. 2992 OF 2016

Balasaheb s/o Dadabhau Kakade,
Age : 48 years, Occ. Agri.
R/o. Chikalthan, Tq. Rahuri,
Dist. Ahmednagar.

...Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue Department, Mantralaya,
Mumbai.
2. The Tahsildar,
Rahuri, Tq. Rahuri,
Dist. Ahmednagar.
3. The Sub-Divisional Officer,
Rahuri Division Rahuri,
Tq. Rahuri, Dist. Ahmednagar
4. The Additional Collector,
Ahmednagar, Tq. & Dist. Ahmednagar.
5. The Additional Divisional Commissioner,
Nasik Division, Nasik

...Respondents

Mr. Narayan B. Narwade, Advocate for the Petitioner
Ms. A.S. Mantri, AGP for Respondents/State

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**CORAM : MANJUSHA DESHPANDE, J.
DATE : 10th JANUARY, 2025**

JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.
2. By this writ petition, the petitioner is challenging order dated 22/01/2015, passed by the Additional Collector, Ahmednagar,

in Delay Inquiry Application No.236/2014, so also the order dated 22/12/2015, passed by the Additional Divisional Commissioner, Nasik Division, Nasik, in Revision No.24/2015, whereby the delay condonation application filed by petitioner has been rejected.

3. It is the case of petitioner that Tahsildar, Rahuri, vide order dated 16/02/2013, imposed fine of Rs.4,62,025/- upon him for excavating excess sand, in view of provisions under Section 48(7) of the Maharashtra Land Revenue Code. Petitioner was directed to deposit the said amount in the Treasury. Being aggrieved by the said order, petitioner filed R.T.S. Appeal No.70/2013 before the Sub-Divisional Officer, Rahuri, who modified the said order and penalty was imposed only to the extent of 18 bras sand excavated by him. Thereafter, petitioner approached the Additional Collector, Ahmednagar, by filing appeal against the order passed by Sub-Divisional Officer, Rahuri. Along with the said appeal, petitioner filed application for condonation of delay. It was the stand of petitioner in the application for condonation of delay, that he was not informed about the said decision passed by the concerned authority, only when he inquired about the status of the matter, he came to know about the decision of Sub-Divisional Officer. Hence, there is delay in preferring appeal which deserves to be condoned. Additional Collector, Ahmednagar, has rejected the application for condonation of delay and consequently rejected the appeal on 22/01/2015.

Being aggrieved by the said order of Additional Collector, petitioner approached the Additional Divisional Commissioner, Nasik Division, Nasik, by filing Revision No.24/2015. It is specifically averred in the revision application that, since the order was not communicated to him, the applicant could not file appeal within limitation. However, the Additional Divisional Commissioner, Nasik, by order dated 22/12/2015 has rejected the revision application, observing that the matter was fixed for hearing on 21/07/2015, 22/09/2015 and 15/12/2015, however, on the assigned dates neither petitioner nor his advocate was present. It is further observed that the Additional Collector has rightly refused to condone the delay caused in filing appeal, as there is no satisfactory explanation given by the petitioner for delay caused in filing appeal. Therefore, the Additional Divisional Commissioner refused to interfere with the order passed by Additional Collector.

4. I have heard learned advocate for petitioner as well as learned AGP for State.

5. Learned AGP for the State submits that as per the *Roznama*, petitioner was given sufficient opportunities, however, he has failed to remain present before the authorities consistently. In view of the same, the order passed by Additional Divisional Commissioner, Nasik, does not deserve to be interfered with.

6. Learned advocate for petitioner has drawn my attention to the application for condonation of delay filed before the Additional Collector, wherein it is categorically stated that petitioner was not intimated about the decision rendered by Sub-Divisional Officer and it was only when he himself inquired about the status of the matter, he came to know about the decision on 05/12/2014. Therefore, after that immediately he had filed for certified copy on 18/12/2014 and after receipt of the same he has filed appeal before the Additional Collector. This aspect has not been considered by the Additional Divisional Commissioner, while passing the impugned order.

7. Considering the fact that petitioner is challenging the order of imposition of fine of Rs.4,62,025/- and his substantial rights are at stake, so also, considering the explanation given by the petitioner in his application for condonation of delay before the Additional Collector, which was not taken into consideration, the order passed by Additional Collector as well as the order passed by Additional Divisional Commissioner deserves to be quashed and set aside. Considering the fact that there is delay of one year and four months, cost of Rs.5,000/- is imposed on the petitioner, to be deposited before Additional Divisional Commissioner, Nasik Division, Nasik.

8. Accordingly, the rule is made absolute in terms of

prayer clause 'B', which reads thus:-

"B) By issuing the appropriate Writ or order in the like nature, the order passed by Ld. Additional Collector, Ahmednagar, in Delay Inquiry Application No.236/2014 dated 22.01.2015 and order passed by Ld. Additional Divisional Commissioner, Division Nasik in Revision No.24/2015 dtd. 22.12.2015 bearing Outward No.31185/KR-Land/Mines and Mineral/Revision/24/2015 may kindly be quashed and set aside."

(MANJUSHA DESHPANDE, J.)