



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1500 OF 2022

Jalgaon City Municipal Corporation .. Petitioner

versus

Chairman,
Khandesh College Education Society
Jalgaon .. Respondent

WITH
WRIT PETITION NO. 1501 OF 2022

Jalgaon City Municipapl Corporation .. Petitioner

versus

Chairman,
Khandesh College Education Society
Jalgaon .. Respondent

Mr. M. V. Navandar, Advocate for Petitioners.
Mr. A. G. Talhar alongwith Mr. Darshan Sahuji and Ms. Dipali
Nikalje, Advocates for the Respondent.

CORAM : R. M. JOSHI, J.

DATE : 22nd SEPTEMBER, 2025.

PER COURT :

1. Since both these Petitions take exception to the order dated 28.08.2018 passed in Civil Misc. Application Nos. 300/2017 and 299/2017 whereby the application for condonation of delay in filing appeal against the judgment and order dated 03.01.2015 and

16.12.2014 passed in Municipal Appeal Nos. 97/2006 and 1/2006 respectively came to be rejected.

2. The facts which led to filing of these Petitions can be narrated in brief as under :-

Petitioner – Municipal Corporation issued bill raising demand of general tax and education cess against Respondent – Education Institution. Respondent challenged the said bills/demand by filing Municipal Appeal Nos. 97/2006 and 1/2006. Trial Court partly allowed the appeals by passing judgment and order dated 03.01.2015 and 16.12.2014 respectively by holding that Respondent is exempted from paying general taxes and education cess. Since the Municipal Corporation was aggrieved by said order, it decided to file appeal along with delay condonation application. The said applications were registered as Civil Misc. Application Nos. 300/2017 and 299/2017. In the said applications, delay of about 3 years is sought to be condoned. It was the contention of Petitioner before the Appellate Court that delay has been caused due to work load and number of other duties required to be discharged by the officers of the Corporation.

3. Respondent resisted said applications by filing say denying the genuineness of the grounds sought to be made out for delay condonation.

4. Learned Additional District Judge – 1, Jalgaon by order dated 28.08.2018 rejected the applications for condonation of delay. Hence these Petitions.

5. Learned counsel for Petitioner submits that the issue involved in the appeals before the District Court was with regard to the taxes to be recovered by the Corporation and hence, in the interest of justice, delay caused in filing appeals ought to have been condoned. It is his submission that no prejudice will be caused to the Respondent if delay is condoned and appeals are decided on merit.

6. This contention is opposed by learned counsel for Respondent by pointing out the fact that not only there is sufficient ground made out for condonation of delay of about three years but the present Petitions also have been filed after three years of passing

of the orders impugned. This, according to him, indicates that the Corporation is negligent and lethargic and therefore, this is not a fit case for exercising discretion of condonation of delay.

7. Though it was argued on behalf of learned counsel for Petitioner that the issue involved in these Petitions pertains to tax, however, the reasons put forth for condonation of delay are far from satisfactory. If the said grounds/reasons are accepted then in all cases whatever time is taken for filing the proceeding will have to be condoned. Needless to say that any Municipal Corporation will obviously have lot of work to do to provide services to the citizens. If this is taken as a ground, any Corporation or authority for that sake would be able to file proceeding after lapse of any number of years and seek condonation of delay which is not permissible in law. It was absolutely necessary for the Petitioner to point out the reasons for not preferring the appeals. This Court, therefore, has no hesitation to hold that it was the error committed by the concerned officers who were responsible for taking exception to the order passed by the Trial Court.

8. In this context, it was suggested to the learned counsel for the Petitioner that in case cost is imposed, the same would be recovered from the erring officers and shall not be paid from the public exchequer. Learned counsel for Corporation, however, has resisted the said suggestion by claiming that there is every possibility that the officers concerned are no more in the employer and therefore, there would be difficulty to recover such cost. If this is the approach of the Corporation, there would be no justification even to impose any cost which would be ultimately paid from the tax payers' money.

9. In any case, at the first instance, the Petitioner ought to have shown sufficient cause for condonation of delay in preferring appeals. There is delay of approximately 3 years which is quite a long period required to be explained satisfactorily. Not only that the Petitioner has failed to substantiate the cause of delay, over and above this, the Corporation took three more years to prefer the Petitions before this Court. This indicates that the Petitioner and its officers are lethargic as a result of which, the Petitions deserve to be dismissed.

10. While exercising writ jurisdiction, the Court is required to see as to whether there is any perversity in the order impugned and considering the facts and circumstances of the case more particularly conduct of the officers of the Corporation, this Court finds no perversity therein in order to cause interference. Hence, both the Petitions stand dismissed.

(R. M. JOSHI)
Judge

dyb