

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1185 OF 2021

Mohammad Taher Burhan Baksh Died Through Lrs

VERSUS

The State Of Maharashtra And Others

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Mr. S. S. Kazi, Advocate for the Petitioners

Mrs. M. L. Sangit, AGP for Respondent Nos. 1 and 4

Ms. Pradnya Talekar i/by Talekar and Asso. for
Respondent No. 2

Mr. Mohd. Waseemullah, Advocate for Respondent No.3a

CORAM : R. M. JOSHI, J

DATE : OCTOBER 09, 2025

PER COURT :

1. By consent of both sides, heard finally at the stage of admission.

2. This Petition takes exception to the order dated 02.03.2020 passed by the Divisional Commissioner rejecting application filed by the Petitioners for seeking succession under the provisions of Hyderabad Atiyat Enquiries Act, 1952 (for short 'the Act') on the ground of delay.

3. The record indicates that previously an order came to be passed by the Authority on application made by the Petitioners and delay was condoned. This order,

however, was taken exception to in Writ Petition No. 838/2018 before this Court and this Court set aside the said order and relegated the matter back to the Authority for decision afresh. In view of the same, the earlier order cannot be relied upon for any purpose whatsoever.

4. On remand, objection came to be raised by the Respondent No. 2 for grant of condonation of delay. After hearing both sides, order impugned came to be passed rejecting the application for condonation of delay on the ground that the only reason recorded therefor is illiteracy of the applicant.

5. Learned Counsel for the Petitioners submits that the Petitioners are the successors of the atiyat grant and that the Petitioners are entitled to record their name as successor of Amer Baksh son of Burhan Baksh. It is his submission that as described in paragraph 3 of the application, in the year 1947 and few years thereafter it was a time of turbulence and owing to uncertainty as to which area of portion would be India and Pakistan. Owing to the said uncertainty, it is claimed that application could not be filed in

time. Apart from this, other reason is illiteracy of the Applicant. It is also sought to be argued that Respondent No. 2 has no locus standi to oppose the application and as such, authority below ought not to have permitted Respondent No. 2 to participate in the said proceedings and oppose application for delay condonation.

6. Learned Counsel for the contesting Respondent has drawn attention of the Court to order passed by this Court in Writ Petition No. 838/2018 whereby order dated 24.04.2019 the Respondent No. 2 was permitted to participate in the hearing till its conclusion. It is thus her submission that now there is no reason to accept the grievance of the Petitioners with regard to the participation of this Respondent in the said proceedings. She drew attention of the Court to Rules 3 and 12 of the Hyderabad Atiyat Enquiries Rules, 1952 in order to argue that on the death of the holder the claim for succession is mandated to file the application within a period of three months and under Rule 12 the delay could be condoned upto 6 months by Deputy Collector and upto 1 year and thereafter by

Divisional Commissioner. It is thus her submission that unless the delay is satisfactorily explained, there was no reason for the authority to entertain the application.

7. Perusal of the application indicates that except for some explanation with regard to turbulent time, which extended upto maximum year 1952, the said ground for condonation of delay is illiteracy and poverty of the applicant. The authority has refused to accept the same as a ground for delay condonation. This Court finds no perversity in the said findings for the reason that if this sole reason is accepted for condonation of delay, then the Limitation Act and limitation period prescribed for institution of various proceedings would become redundant. The delay of 48 years is inordinate and unless it was satisfactorily explained, it was not open for the authority to condone the same. Consequently, the order impugned is not find to be perverse to cause interference therein.

8. In so far as the arguments made by the Counsel for Petitioners in respect of locus standi of the Respondent No. 2 is concerned, since the order impugned

does not take into consideration or decides the said issue, this Court does not wish to offer any comment thereupon.

9. As a result of above discussion, Petition stands dismissed.

(R. M. JOSHI, J.)