IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

923 CIVIL APPLICATION NO. 10105 OF 2014
IN/WITH FAST/22420/2014

The State of Maharashtra And Another
VERSUS
Narhari Khandu Toradmal And Others
…
WITH
CIVIL APPLICATION NO. 10108 OF 2014
IN/WITH FAST/22442/2014

The State of Maharashtra And Another
VERSUS
Dasharath Narayan Pote And Others
…
WITH
CIVIL APPLICATION NO. 10110 OF 2014
IN/WITH FAST/22450/2014

The State of Maharashtra And Another
VERSUS
Deubai Dagadu Pote Dead Subhash And Others
…
WITH
CIVIL APPLICATION NO. 10112 OF 2014
IN/WITH FAST/22446/2014

The State of Maharashtra And Another
VERSUS
Punja Kisan Pote
…

A.G.P. for Applicant : Mr. A.A. Khan
Advocate for Respondents : Ms. Tanvi S. Pujari h/f Mr. Parag V. Barde

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CORAM : **SANJAY A. DESHMUKH, J.**
DATED : **27th NOVEMBER 2025**

PER COURT :-

1. Civil Application Nos. 10105 of 2014, 10108 of 2014 and

10110 of 2014 and 10112 of 2014 are filed for condonation of delay 938 days caused in filing the first appeals. On perusal of the applications, it reveals that the applicants State Government and Executive Engineer of the Employment Guarantee Scheme, Aurangabad, preferred these appeals against the judgment and award passed by the reference court. However, there is delay caused in drafting, sending of the proposals to the Government and to comply such formalities, the permission of the State Government is necessary. Further the provision of payment of court fees is also required to be made. In all these process, the time is consumed and therefore, the delay is caused.

2. Learned A.G.P. for the applicants submitted that the delay caused is not deliberate or intentional. It was the aspect of procedure to be following by the officers from one office to another office. Therefore, the delay is caused. It is lastly prayed to condone the delay in the interest of justice to decide the appeals on merits.

3. Learned advocate Ms. Pujari h/f Mr. Barde, learned advocate for the respondents – claimants strongly opposed the applications and submitted that there are no sufficient reasons to condone the delay. The reasons given are not sustainable and there is no explanation as to how and for what reason the delay was

caused for filing the appeals. She is relying upon the following two authorities:-

i) Income Tax Department, Assistant Commissioner of Income Tax Circle-2(1) vs. Dattaraj Vassudeva Salgaoncar : 2024 DGLS (Bom.) 3382

ii) Additional Commissioner of Sales Tax, VAT-III vs. Kayani Bakery Pune : 2016 DGLS (Bom) 165,

4. In the case of ***Income Tax Department, Assistant Commissioner of Income Tax Circle-2(1) (supra)***, this Court in par 39 has observed as under:-

> *"39. With these factual matrix, the decisions referred on behalf of the respondents will have to be considered. The first set of decisions referred by Mr. Nankani are in respect of powers of the Court under Section 5 of the Limitation Act. There is no need to refer to all the 15 decisions provided in the first set however the settled principle of law could be considered as under:*
>
> *(A) The Court would exercise its discretion in condoning or declining to condone delay judiciously and ensure that no serious prejudice is caused to either of the parties to the proceedings.*
>
> *(B) When an appeal becomes barred by time because of negligence or default of one of the parties,*

valuable rights accrue to the others which normally are not being taken away in a routine manner and too liberalised exercise of discretionary power.

(C) It is equally true that the period of limitation and object of prescribing periods is not intended to destroy rights but is founded on public policy fixing a life span for legal remedy for general welfare.

(D) Length of delay per-se may not be a ground for rejecting an application but if a satisfactory explanation has been furnished by the parties which can be accepted by the Court in consonance with the settled norms for exercise of such discretion.

(E) The rules of limitation are not meant to destroy the rights of the parties. They are meant to see that the plaintiff does not take dilatory tactics but seeks remedy promptly.

(F) The laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizens under personal property and other laws.

(G) The Courts have to adopt a justice oriented approach dictated by the uppermost consideration that ordinary a litigant ought not to be denied an opportunity of having a lis determined on merits unless he has, by gross negligence, deliberate inaction or something akin to misconduct, disentitled himself from seeking the indulgence of the Court.

(H) The expression "sufficient cause" should, therefore, be considered with pragmatism in a justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay.

(I) Sufficient cause cannot be liberally interpreted if negligence, inaction or lack of bonafides is attributed to a party.

(J) The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. The word sufficient embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the case, duly examined from the viewpoint of reasonable standard of a cautious man. In other words "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bonafide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive".

(J) The expression "sufficient cause" contained in section 5 of the Limitation Act is elastic enough to yield different results depending upon the object and context of a statute.

(K) It is very elementary and well understood that courts should not adopt an injustice-oriented approach in dealing with the applications for condonation of the delay in filing appeals and rather follow a pragmatic line to advance substantial justice.

(L) The Courts have to adopt a very liberal approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act in order to condone the delay to enable the Courts to do substantial justice and to apply law in a meaningful manner which subserves the ends of justice."

5. In the case of ***Additional Commissioner of Sales Tax, VAT-III (supra)*** this court in para 24, 25, 26 and 30 has observed as under:-

"24. We are also aware that certain amount of latitude in cases where Government is a litigant, is not impermissible, as the State represents collective cause of the community and what ultimately suffers is public interest, necessitating adoption of pragmatic approach to do substantive justice. However, in case of gross delay and inaction, it becomes difficult to put a State on high pedestal, so as to be immune to the consequences of the inaction. No separate standards to determine the cause laid by the State vis-a-vis private litigant could be laid to prove sufficient cause. Merely because applicant is a State, delay cannot be condoned without a proper explanation as Section 5 of the Limitation Act is equally applicable to the State as well.

25. In the case of Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr.3, the Apex Court, after taking review of its earlier decisions, was constrained to observe that,

"12. ……………………………………….. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned

mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fat that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed *on the ground of delay."*

26. It has, thus, to be remembered that the Government is also a litigant before the Court like any other litigant. Hence, even to invoke these aspects of peculiar functioning of Government, a specific case is required to be made out, as to which are those aspects which, in a particular case, cause delay in preferring the Appeal.

30. As a matter of fact, the Government, being the largest litigant, has to be a model and ideal litigant. The sheer and gross negligence on the part of the Government in preferring such Appeals cannot be condoned in this manner, as a routine or as a right of the Government, and that too to unearth the cause which is already set at rest."

6. Learned advocate for the respondents submitted that there are no sufficient cause to condone the delay, as the applicants have not established the sufficient cause for condoning the delay as contemplated under section 5 of the Limitation Act.

7. On perusal of the applications, particularly the grounds raised in the same, it appears that some time was required for processing the sanction/permission to file appeals with the offices like Law and Judiciary Department, Office of the Government Pleader and also to make provision for payment of the Court fees and other expenses some time was consumed. As per the contentions raised in para 4 of the said applications, it appears that

the delay is not caused deliberately. Therefore, law laid down in the cases of ***Income Tax Department, Assistant Commissioner of Income Tax Circle-2(1) (supra)*** and ***Additional Commissioner of Sales Tax, VAT-III (supra)*** cited on behalf of the respondents, is not helpful to disbelieve the reasons given by the applicants in their applications. The applications therefore, deserve to be allowed by taking a pragmatic/liberal view considering the factual background of the case. The applications therefore, allowed. Delay caused in filing the first appeals is condoned.

8. In first appeals, issue notice to the respondents, returnable on 18.12.2025. Call for record and proceedings.

(SANJAY A. DESHMUKH, J.)

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