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Review Appln-172-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 172 OF 2025
IN
WRIT PETITION NO. 5083 OF 2023

Panditrao Ramrao Deshmukh
Age: 85 years, Occu: Agri.
R/o. Saraswati Colony, Vasmat,
Tq. Vasmat, Dist. Hingoli.

...APPLICANT

VERSUS

1. Sopanrao Begaji Nadre,
Age: 71 years, Occu: Agri.
R/o. Girgaon, tq. Vasmat,
Dist. Hingoli.
2. The Joint Charity Commissioner,
Aurangabad, Tq. & Dist. Aurangabad.
3. The Assistant Charity Commissioner,
Hingoli, Tq. & Dist. Hingoli.

...RESPONDENTS

Mr. V. D. Salunke, h/f Mr. Mayur V. Salunke, Advocate for Applicant.
Mr. V. D. Sapkal, Senior Advocate i/by Mr. E. P. Sawant a/w Mr. Yash A.
Jadhav and Mr. Avinash Hande for Respondent No.1.
Mr. S. B. Jadhav, AGP for Respondent No.2 and 3-State.

CORAM : KISHORE C. SANT, J.
RESERVED ON : 14th AUGUST 2025.
PRONOUNCED ON: 16 SEPTEMBER 2025.

ORDER :-

1. Heard the parties.
2. The present applicant has filed this review application seeking review of the order passed by this Court dated 13th June 2025 in Writ Petition No.5083 of 2023, whereby the writ petition came to be dismissed. The parties will be referred to as per their status in the petition.
3. The facts, in short, are that the petitioner is a member of one Trust namely, Bahirji Smarak Vidyalaya Shikshan Sanstha Wapti, Tq. Vasmat, Dist Hingoli. He was elected to the management committee in 2008 for a period of three years from 2008 till 2011. The said change report was rejected by order dated 17th December 2015. An appeal filed there-against also came to be withdrawn. Before the said decision, the election

process for the fresh term of 2012 to 2015 had also been initiated. This was challenged by filing writ petition No.2830 of 2012 in this Court. The elections were stayed. In the challenge to that order, the Hon'ble Apex Court directed to conduct the elections and not to declare the result. The next term also expired. The writ petition is still pending. In that view, the management committee elected for the term in the year 2005-2008 continued to be on schedule-I and was looking after the trust. The election was held for the period of 2015-2018. The change report was filed and same was accepted. Even thereafter, the election came to be held for the period of 2019-2022. That change report of the same is pending. In the meantime, there was an amendment of the trust rules whereby the term of managing committee is extended to five years and the elections were held for a period of 2021-2026. The said change report is still pending.

4. In the meantime, there was a dispute wherein the respondent No.1, elected secretary for a period of 2005 to 2008, came to be removed in a meeting dated 16th May 2012. It was the case of the *D.A.Ethape*

respondent No.1 that the committee on 16th May 2012 was not having legal existence, and therefore, had no right to pass such a resolution. Under Section 41A, there was already an order passed by the learned ACC directing the respondent No.1 to look after the trust. The authority decided that the respondent No.1 was wrongly removed from the post of secretary by observing various infirmities in the process of removing the respondent No.1 and also the legality about the existence of the committee. It is in that view, the petitioner i.e. present applicant had filed writ petition.

5. This Court held that when the respondent No.1 was allegedly removed from the post of secretary, the committee was not a valid committee having legal recognition and, in that view, the resolution/order removing respondent No.1 from the post of secretary was held to be illegal by way of impugned order. When the order was passed, a request was made to continue interim relief for a period of six weeks. It appears that the applicant did not approach the Hon'ble Apex Court and this review application came to be filed.

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6. Learned Advocate Mr. Salunke vehemently argued that this Court has committed a mistake in entertaining the writ petition. The order impugned in the petition was passed in 2012. The petition was filed after much delay and laches. Though there is no period of limitation prescribed for filing revision, still the Court has committed an error apparent on the face of record by entertaining the petition without any application for condonation of delay. Admittedly, there was no application for condonation of delay. Since there was delay, a right accrued in favour of the petitioner. The revisional authority considering that the revision was not maintainable for delay and laches. The parties had not filed revision within a reasonable time. He further submits that since the respondent No.1 had not filed an appeal before the appellate authority, it ought to have been considered that the petitioner waived right to the remedy. This Court has thus committed an error in not considering that ground. On merits also, he addressed this Court. However, this Court need not consider the said question as the error apparent on the face of record is the only to be considered. The

argument is only that this Court failed to consider that the revision was filed beyond the period of limitation without any application for condonation of delay.

7. The learned Advocate for the Applicant relied upon the judgments in the cases of *Dadasaheb Dattajirao Nimbalkar and Ors. Vs. Ushadevi Rajaram Nimbalkar and Anr.*¹, *Ragho Singh Vs. Mohan Singh*², *Ballumal A. Jaisingh Vs. M/s. J. J. Builders and Ors.*³.

8. Learned Senior Advocate Mr. Sapkal vehemently argued that there is no error apparent on the face of record in the judgment. While filing revision before the revisional authority, there is no limitation prescribed by the law. This point is specifically dealt with by this Court in the judgment. When there is no limitation prescribed under the Act, there was no question of filing any application for condonation of delay. He relied upon the judgment in the case of *S. Madhusudhan Reddy Vs. V*

1 2002 (3) Bom C.R. 590

2 2001 AIR (SCW) 2351

3 2003 BCI 46

*Narayana Reddy and Ors.*⁴ In support of his contention, the review application is not maintainable as there is no error apparent on the face of record.

9. He further submits that there is distinction between an error apparent on the face of record and erroneous decision. He submits that even if the decision is erroneous, that is no ground to file review application. He further submits that all the questions raised before the Court are considered by the Court in the order and there is no need to entertain review application.

10. After hearing the parties, this Court has to only see as to whether any error apparent on the face of record committed by this Court while passing the order. The main thrust of the petitioner is on the delay in filing the revision application before the revisional authority. Admittedly, there is no specific period prescribed for filing revision under Section 70-A of the Maharashtra Public Trust Act. When there is no specific period

⁴ (2022) 17 SCC 255

prescribed for filing revision application, there is no question of filing any application for condonation of delay. What Court needs to consider in such case is only as to whether the revision suffers from delay and laches from the facts of each case. The authority certainly has the discretion to condone such delay or laches. The said point was argued before this Court and is dealt with by this Court.

11. In the case of *Dadasaheb Nimbalkar and Ors.* (supra), this Court had considered the provisions of section 22, 70-A and 72 of the Maharashtra Public Trusts Act (then Bombay Public Trusts Act), it was held that when there is delay, there has to be an application. In the said case, there was delay and the learned Charity Commissioner did not consider the aspect of delay.

12. In the case of *Ragho Singh* (supra), the Hon'ble Apex Court considered that when there is delay, there has to be an application for condonation of delay. Unless such application is made and delay is condoned, the authority does not get power to consider appeal. That

case was under Section 5 of the Limitation Act. In the case of ***Ballumal A. Jaisingh*** (supra), this Court had considered that there was no application for condonation of delay. The Court considered that when there is no application for condonation of delay, there is no question of learned judge getting jurisdiction to condone the delay without such application. There is no dispute about this legal position.

13. The judgment in the case of ***S. Madhusudhan Reddy*** (supra) was relied upon by the learned Senior Advocate for respondent. The Hon'ble Apex Court had considered the powers and scope of review. It is held by the Hon'ble Apex Court that there is a distinction between the erroneous decision and error apparent on the face of record. paragraph No.25 of the said judgment reads as below:

“25. Under the garb of filing a review petition, a party cannot be permitted to repeat old and overruled arguments for reopening the conclusions arrived at in a judgment. The power of review is not to be confused with the appellate power which enables the Superior Court to correct errors committed by a subordinate Court. This point has been elucidated in Jain Studios Ltd. Vs. Shin Satellite Public Co. Ltd. [(2006) 5 SCC 501] where it was held thus: Para 11 and 12.

“11. So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases.

12. When a prayer to appoint an arbitrator by the applicant herein had been made at the time when the arbitration petition was heard and was rejected, the same relief cannot be sought by an indirect method by filing a review petition. Such petition, in my opinion, is in the nature of 'second innings' which is impermissible and unwarranted and cannot be granted.”

(emphasis added)”

14. This Court finds that there was no requirement for filing an application for condonation of delay before the revisional authority. The said ground thus does not hold any ground. So far as other aspects are concerned, this Court finds that no error apparent on the face of record, as such, is pointed out. No case is made out to entertain the review application. The review application therefore stands dismissed with no order as to costs.

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15. With this, review application stands disposed off.

[KISHORE C. SANT, J.]