

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
INTERIM APPLICATION NO.270 OF 2024
IN
SECOND APPEAL (STAMP) NO.2373 OF 2023**

ZILLA PARISHAD SANGLI THROUGH THE CHIEF EXECUTIVE
OFFICER SANGLI
VERSUS
KIRAN DATTATRAY DANDAGE

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Mr. Vijay Killedar a/w Ms. Rohinee Yadav, Advocate for Applicant.
Mr. Sandeep Koregave a/w Ms. Pallavi A. Karanjkar, Advocate for Respondent.

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CORAM : S. G. CHAPALGAONKAR, J.

**RESERVED ON : 30th SEPTEMBER, 2025.
PRONOUNCED ON : 07th OCTOBER, 2025.**

FINAL ORDER:-

1. By this application, applicant-Zilla Parishad seeks to condone delay of 322 days caused in filing Second Appeal against judgment and decree dated 01.12.2021 passed by learned District Judge, Sangli in Regular Civil Appeal No.284/2017, thereby upholding judgment and decree dated 29.07.2017 passed by learned Joint Civil Judge Senior Division, Sangli in Regular Civil Suit No.148/2012.
2. The respondent instituted Regular Civil Suit No.148/2012 for recovery of amount of Rs.34,15,650/- from Zilla Parishad alleging that he has supplied plastic mats to Zilla Parishad Schools in State in pursuance to letter dated 17.09.2008 issued by Development Commissioner, State of Maharashtra and consequential order dated 23.10.2008 issued by Zilla Parishad for supply of goods.

3. The Zilla Parishad filed written statement, however, took a plea that plaintiff has supplied plastic mats to Zilla Parishad Schools on the basis of bogus order. The Zilla Parishad initiated departmental action against concerned Clerk of Zilla Parishad, who had issued said bogus order and even Crime No.183/2010 was registered against him.

4. The learned Trial Court framed issues, recorded evidence of parties and finally decreed suit directing Zilla Parishad to pay amount of Rs.34,15,650/- to applicant. The aforesaid judgment and decree was assailed in Regular Civil Appeal No.284/2017 before learned District Judge at Sangli, who confirmed decree. The Second Appeal is filed by Zilla Parishad alongwith Interim Application No.270/2022 seeking to condone delay of 322 days.

5. It is contention of applicant that certified copy of judgment and order was received on 10.01.2022. After receipt of certified copy, legal opinion was sought from Advocate of Trial Court. Thereafter, administrative decision was taken. The amount of Court Fee was drawn. Thereafter, Appeal was drafted by Advocate on the basis of paper book that was supplied to applicant from District Court. However, while drafting Appeal, it was transpired that it was incomplete and part of cross-examination of plaintiff was missing. Therefore, after obtaining complete proper paper book, Appeal was prepared and filed before this Court.

6. Mr. Sandeep Koregave, learned Advocate appearing for respondent/plaintiff opposes aforesaid contention and prayer for delay condonation on the ground that explanation offered is not adequate and does not constitute sufficient cause. The Appeal is filed only to harass respondent/plaintiff. He relies upon observations of Supreme Court in case of *Rajneesh Kumar and Another Vs. Ved Prakash*¹, *Lanka Venkateshwarlu Vs. State of Andhra Pradesh and Others*² and *Balwant Singh Vs. Jagdish Singh and Others*³.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and contentions as raised in application as well as affidavit-in-reply, it is evident that present Appeal is filed by Statutory Body i.e. Zilla Parishad through Chief Executive Officer assailing money decree. There is delay of almost 322 days. There cannot be dispute as to proposition of law espoused in judgment relied upon on behalf of respondent. It is true that, applicant has to explain delay. The Court has to record its satisfaction that delay is unintentional and sufficiently explained. In present case, it is contended by applicant that after obtaining certified copy, legal opinion was obtained from concerned Advocate. Thereafter, administrative sanction was taken. The Court Fee was arranged. Thereafter, when matter was drafted, it was transpired that paper book supplied to

1 2024 SCC OnLine SC 3380.

2 (2011) 4 SCC 363.

3 (2010) 8 SCC 685.

applicant by District Court was incomplete. As such, it was required to be procured and Appeal was redrafted.

8. It is true that, explanation offered sans minute particulars as to steps taken by Zilla Parishad for filing Appeal. However, there cannot be straight jacket formula applicable in each case. It is necessary to find out as to whether delay could have been avoided by party by exercise of due care or delay is occasioned on account of lethargy or gross negligence of applicant. In present case, it cannot be ignored that Zilla Parishad has to follow internal procedure to get necessary administrative sanctions for filing Appeal and arrange funds. In such case, usually time is consumed beyond limitation period for administrative reasons. Further, after getting necessary sanctions and arranging funds, non-availability of entire paper book appears to be caused for delay in properly drafting Appeal and presenting same before this Court. The Supreme Court in case of ***Collector, Land Acquisition, Anantnag & Anr. Vs. Katiji & Ors.***⁴ laid down following principles while considering application for delay condonation:

“4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.”

9. In light of aforesaid exposition of law, this Court finds that delay is unintentional and reasons for delay condonation are adequate. The applicant has not derived any advantage by making such delay. It is

⁴ (1987) 2 SCC 107.

true that, respondent must have suffered inconvenience due to delay. However, same can be compensated in terms of cost. In result, following order is passed:

ORDER

- a. Interim Application is allowed in terms of prayer Clause (b) subject to condition that applicant pays cost of Rs.15,000/- (Rs.Fifteen Thousand only) to respondent within period of six weeks from today.
- b. After deposit of cost, Appeal be registered.
- c. In case of failure to deposit cost within stipulated period, Interim Application shall be deemed to be rejected.

(S. G. CHAPALGAONKAR)
JUDGE