

OShabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6770 OF 2023

Chairman Man Taluka Shetkari
Sahakari Karedi Vikari Sangh Ltd. & Anr. ... Petitioners
V/s.
State of Maharashtra & Ors. ... Respondents

Mr. Kirankumar Phakade, for petitioner.

Mr. S. D. Rayrikar, AGP for State – respondent Nos. 1 to 3.

CORAM : AMIT BORKAR, J.

DATED : MAY 6, 2025

P.C.:

- 1. Rule.** Rule is made returnable forthwith.
- 2.** The present petition is filed under Article 227 of the Constitution of India, whereby the petitioners are challenging the legality and correctness of an order passed by the Appellate Authority, by which a delay of eight months in filing an appeal was condoned and approval was granted to an amendment of the society's bye-law.
- 3.** It is the case of the petitioners that such an appeal itself was not maintainable in law, and even otherwise, the reasons given for condoning the delay are not satisfactory. It appears from the record that the only explanation given for the delay is that the

appellants had “no knowledge” of the decision taken. However, such a reason of lack of knowledge does not, by itself, constitute a sufficient cause under law for condonation of delay, especially when the record shows that the decision to amend the bye-laws was taken in a General Body Meeting, and further, that notice of the said meeting was duly published in a local newspaper.

4. It is a well-settled principle that mere denial of knowledge is not sufficient, particularly where steps have been taken to notify members of the society. When notice of the general body meeting is issued through a public mode like newspaper publication, it creates a presumption of due notice, unless the party rebuts it by concrete proof. In the absence of such proof, the condonation of delay solely on the ground of ignorance or lack of knowledge cannot be sustained.

5. The office report on record shows that respondent Nos. 4 and 5 have been duly served with the notice of this petition. However, despite such service, they have failed to appear before this Court either in person or through their Advocate. In light of such non-appearance, and there being no request for adjournment or explanation for absence, this Court deems it appropriate to proceed with final hearing of the petition on merits, in accordance with law.

6. Upon careful perusal of the impugned order, this Court finds that the only reason assigned for condoning the delay—lack of knowledge—has been accepted without due application of mind. The materials on record, especially the publication of notice of the

General Body Meeting in a newspaper, would clearly displace such a plea of ignorance. Therefore, in the considered view of this Court, the acceptance of the explanation as “sufficient cause” appears to be not only erroneous but contrary to the record.

7. Once it is found that the explanation offered for delay is false or unsubstantiated, the impugned order condoning delay of eight months is liable to be set aside. It is trite law that condonation of delay is not a matter of right, and sufficient cause must be shown by the party seeking such indulgence, which is clearly lacking in the present case.

8. Rule is made absolute in terms of prayer clause (a).

9. The writ petition stands disposed of in above terms. There shall be no order as to costs.

10. Pending interlocutory application(s), if any, stands disposed of.

(AMIT BORKAR, J.)