

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

Writ Petition No. 13733 of 2024

Mr. Chandrakant Dagadu Pawar
1/1, Vasant Bahar, Government Quarters,
Opp. Government Rest House, Golf Club Road,
Nashik. ... Petitioner

V/s.

1. The State of Maharashtra
Through its Principal Secretary,
Tribal Development Department,
Mantralaya, Mumbai 400 032.
2. Maharashtra Public Service Commission
Trishul Gold Field, Plot No.34,
Sector 11, Opposite Sarovar Vihar,
Belapur CBD, Navi Mumbai 400614. ... Respondents.

Mr. Abhineet N. Pange a/w. Sumit Agrawal, Shantanu Joshi and
Akarsh Tripathi, Advocate for the Petitioner.

Ms. Pranali Kakade a/w. Advocate Sankalan Das for Respondent
No.2 – MPSC.

Mr. N.C.Walimbe, Addl. G.P. a/w. D.S.Deshmukh, AGP for the
Respondents-State.

**CORAM : M.S. KARNIK &
S.M. MODAK, JJ.**

DATE : 27th January 2026.

Oral Judgment (Per M.S. Karnik, J) :

1. The challenge in this petition is to the order dated 3rd September 2024 passed by the Maharashtra Administrative Tribunal (“Tribunal”, for short) in Miscellaneous Application No. 407 of 2024, condoning the delay of 12 months in filing Review Application No. 6 of 2024, seeking the review of the order of the Tribunal dated 7th June 2023 in Original Application (“O.A.”, for short) Nos. 685 of 2016 and 703 of 2016.

2. It would be pertinent to note some background facts which led to the filing of the present Petition:

- i. The O.A. was filed by the present Petitioner before the Tribunal, seeking, firstly, the quashing and setting aside of the recommendation list dated 8th January, 2016 to the extent of the OBC category pursuant to advertisement No. 10 of 2015 and secondly, a declaration that the candidature of the candidate recommended from the OBC category is invalid, with consequential declaration that the Petitioner be considered for appointment in place of the said candidate.
- ii. The Tribunal decided the O.A. in favour of the Petitioner. Vide order dated 7th June 2023. The Tribunal allowed the O.A. The relevant portion of the Tribunal’s order which needs reference is thus:-

“3. Pursuant to order dated 28.4.2023, a question is asked

to the Respondent-State how Respondent no.3 in both the O.As viz. Shri Narayan S. Khambayat was selected and recommended in the category of disabled persons and it was found subsequently that he is having only 30% disability in the left eye and not 40% disability which is requisite.

4. Learned Presenting Officer, on instructions from the Respondents submitted that Shri Khambayat, who was to be appointed in the category of disabled is not given the appointment. He further submits that a candidate from open category, who was selected at Sr. No.1, Ms. Shubhangi Sapkal, has expired and therefore, that post is already vacant. Therefore, applicant no.1, H.B.Gavhane can be accommodated in open category in handicapped quota. Thus, one post which was reserved for persons from disabled category can be filled in. Applicant no.2, Shri C.D.Pawar, who is from OBC category can be accommodated in the OBC quota as he is at Sr. No.1 in the merit list in OBC category.

5. In view of the above, we direct, Respondent no.2, M.P.S.C. to recommend the name of applicants within two weeks from today and thereafter, Respondent-State is directed to issue the appointment order of the applicants within two weeks thereafter. Further at the time of issuing the appointment order, the seniority of the applicants is to be decided by giving them the deemed date as per the rules

and the settled provisions of law.

6. Accordingly, Original Applications stand disposed of.”

- iii. Aggrieved by the said judgment and order dated 7th June 2023 passed by the Tribunal, Respondent No.2 -MPSC filed an application for review of the same. As there was a delay of 12 months in filing the review petition, Respondent No.2 filed a Misc. Application seeking condonation of delay. The stand taken by the MPSC in the application for condonation of delay is as follows:

“3. The Applicant (Org. Respondent No.2) states that, at the time of hearing of the abovementioned Original Application, no representative of the present Applicant was present. Therefore, the present Applicant came to know about the order of the Hon'ble Tribunal only after receipt of the letter from the Org. Applicant dtd. 12.6.2023. It was also noticed that no request was made by the Government to send candidates from Waiting List in the year 2016 or after order of the Hon'ble Tribunal. Because as per the procedure, only after receipt of request from the Government, the Waiting List can be operated.

4. The Applicant (Org. Respondent No.2) states that, a Review Application is filed seeking review of the order dtd. 7.6.2023 giving detail reasons for the same. The said review is in the interest of justice as it is submission of the Commission that, the directions of the Hon'ble Tribunal in

the order dtd. 7.6.2023 are contrary to the Reservation Policy for PH candidate. Hence, the delay of 12 months that has occurred in filing the Review Application, which is not deliberate, requires to be condoned. The said condonation of delay is in the interest of justice and equity.

5. The Applicant (Org. Respondent No.2) states that, a Contempt Application bearing No. 16/2024 is filed and in the same the Hon'ble Tribunal has issued notice under Contempt of Courts Act on 24.6.2024, which is returnable on 8.7.2024. Considering the said fact, it is necessary to condone delay and hear the Review Application on merits, which is necessary in the interest of justice. Hence, by the present Miscellaneous Application, it is most humbly prayed that the delay of 12 months in filing the Review Application may kindly be condoned.” (emphasis supplied)

- iv. The said application for condonation of delay was allowed by the Tribunal vide impugned order dated 3rd September 2024, observing thus:

“4. Admittedly there is delay of one year and there is no substantial reason for condoning the delay as required under the Limitation Act. So also the order dated 7.6.2023 passed in ÖÀ was received by the MPSC and it was necessary on the part of the MPSC to take note of it and to implement the order. Secondly when the applicant has filed representation in June, 2023 it was necessary for the MPSC to look into the matter on the basis of said representation

and if the MPSC had arrived at conclusion that order in OA was not consistent with the legal provision of the reservation policy then MPSC could have filed the RA immediately. Thus, no proper explanation has come forward from the MPSC.

5. However, the fact that if on the face of record this Tribunal has committed mistake in granting reservation to disables and therefore order requires to be corrected and so reservation policy is required to be considered afresh on the background of set of these facts, then we are of the view that as a legal issue is raised though it is very late it is necessary to deal with in order to avoid further precedent to this order. Hence, we allow the MA and condone the delay of 12 months in filing the RA. Delay is condoned subject to payment of cost of Rs.500/- (Rupees five hundred only). The cost is to be paid by the MPSC to the applicant within one week i.e. till 11.9.2024. MA disposed off accordingly.”

3. Mr. Abhineet Pange, learned Counsel for the Petitioner submitted that when the Tribunal has clearly observed that no proper explanation has been given by the MPSC while seeking condonation of delay, it was not then justified for the Tribunal to allow the application and condone the delay. He submitted that the Tribunal is in error while observing that the order dated 7th June 2023 required to be corrected. The reason that the said order passed by the Tribunal in the O.A. was contrary to the Reservation Policy for Physically Handicapped candidates, and, therefore, the application for condonation of delay needs to be allowed, is fallacious. It is submitted that the Tribunal could not have taken support of the errors committed in the main order on merits, as a

ground to condone the delay. It is submitted that it was only after several representations were made for implementing the order dated 7th June 2023, and after the contempt petition came to be filed, that the M.P.S.C. filed the application seeking review of the said order along with an application for condonation of delay. It is further submitted by learned counsel that even on merits, the review petition could not have been entertained as the person who preceded the Petitioner on the waiting list is already working on the promoted post of the Dy. Commissioner and, therefore, is now not interested in laying claim to the post to which the Petitioner is to be appointed on the basis of the order dated 7th June 2023, of which review is sought.

4. Learned counsel for the Petitioner relied upon the following decisions in support of his submissions:

(i) *Secretary to Govt. of India and others v/s. Shivram Mahadu Gaikwad*¹

(ii) *Ramesh Chand Sharma vs. Udham Singh Kamal and others*²

(iii) *Basawraj & anr. v/s. Special Land Acquisition Officer*³

(iv) *Pathapati Subba Reddy and others vs. The Special Deputy Collector*⁴

5. Ms. Pranali Kakade, learned counsel for Respondent No.2 –

1 1995 Supp(3) Supreme Court Cases 231

2 AIR 1999 SC 3837

3 2013 SCC OnLine SC 758

4 2024 INSC 286

MPSC on the other hand supported the impugned order. It is submitted that in the O.A., the Petitioner has been granted a relief by the Tribunal, to which he is not entitled considering that the same is completely contrary to the policy of reservation. It is further submitted that the benefits of reservation are available only to the incumbent who is eligible. It is further submitted that the representative of the State of Maharashtra is not authorized by the MPSC to take a stand on behalf of the MPSC which has led to the passing of an erroneous order by the Tribunal in the O.A., which is necessary to be corrected by way of a review petition, otherwise it would lead to a wrong precedent. The learned counsel argued in support of the proposition that even the merits of the matter can be taken into consideration while condoning the delay, placing reliance on the decision of the Hon'ble Supreme Court in *Inder Singh v/s. State of Madhya Pradesh*⁵ dated 21st March 2025.

6. We have heard learned Counsel, perused the materials on record and the impugned order.

7. From a bare perusal of the impugned order, it can be seen that the Tribunal, while allowing the application for condonation of delay, has observed that the MPSC had not made out "sufficient cause" to condone the delay. We have perused the application for condonation of delay preferred by the MPSC. Except for stating that the order of which review is sought is erroneous as the reservation

5 2025 SCC OnLine SC 600.

policy has not been applied appropriately, there is no sufficient cause made out for condoning the delay. Having held thus, we do find the submission of learned counsel for the Petitioner that the Tribunal committed an error in drawing support from the merits of the matter as a reason for condoning the delay, attractive.

8. Before we proceed further, we remind ourselves that the law of limitation is founded on public policy and the maxim *interest reipublicae ut sit finis litium*, meaning that there must be an end to litigation. Limitation statutes are statutes of peace, repose and discipline, not meant to destroy rights but to prevent stale and dilatory claims.

9. The Hon'ble Supreme Court in ***Secretary, Government of India v/s. Shivram*** has held that in the absence of valid explanation on record for coming to the conclusion that a case for condonation of delay is made out, the delay cannot be condoned. In ***Ramesh Chand Sharma v/s. Udham Singh Kamal*** (supra) the Hon'ble Supreme Court has observed that in the absence of any sufficient cause being shown, the settled law, as laid down in ***Secretary to Government of India and others v/s. Shivam Mahadu Gaikwad***, mandates that until delay is condoned, the facts of the case cannot be examined. In ***Basawaraj and anr. v/s Special Land Acquisition Officer*** Their Lordships have explained the well settled position that unless the applicant demonstrates adequate and bonafide reasons preventing timely filing, the court cannot exercise discretion to condone delay.

Mere negligence, inaction or lack of diligence cannot constitute sufficient cause. It is held that limitation must be applied with full rigour, and hardship or inconvenience cannot override statutory mandate. Their Lordships observed, therefore, that in the absence of any satisfactory explanation, the delay cannot be condoned and the application is barred by limitation.

10. We may then refer to the observations of Hon'ble Supreme Court in *Pathapati Subba Reddy through L.Rs v/s. The Special Deputy Collector* in Special Leave Petition (Civil) No.31248 of 2018 decided on 8th April 2024. Referring to the decision in *Basawaraj and anr. v/s. Special Land Acquisition Officer*, the Hon'ble Supreme Court held that discretion to condone delay has to be exercised judiciously based on facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bonafide is writ large. It was also observed that even though limitation may harshly affect rights of the parties, it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.

11. It would be profitable to refer to the observations of Their Lordships in Para-28 of *Basawaraj* (supra) wherein the relevant principles in the context of considering an application for condonation of delay have been culled out after considering various

decisions of the Hon'ble Supreme Court. Para-28 reads thus:

“28. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

28.1. Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

28.2. A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

28.3. The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

28.4. In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

28.5. Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and

may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

28.6. Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

28.7. Merits of the case are not required to be considered in condoning the delay; and

28.8. Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.” (emphasis supplied)

12. The upshot of the relevant paragraphs of the judgment of the Honourable Supreme Court in ***Basawaraj*** (supra) quoted above is as follows: Limitation law is not a mere technicality but a rule of public policy intended to ensure certainty and finality in legal proceedings by extinguishing the remedy after a prescribed period. Time and again, the Hon’ble Supreme Court has observed that Section 5 of the Limitation Act provides a limited and discretionary relaxation, permitting condonation of delay only where sufficient cause is convincingly shown. This discretion, though to be exercised with a

liberal and justice-oriented approach, is not unfettered and cannot be invoked to nullify the substantive law of limitation or to restore stale and dormant claims. Even the establishment of sufficient cause does not compel condonation as a matter of right, particularly where the delay is inordinate or attributable to negligence, inaction, or lack of due diligence on the part of the litigant. The court, at the stage of considering delay condonation, should not, in the usual course, be concerned with the merits of the underlying dispute.

13. Having considered the aforesaid authoritative decisions of the Hon'ble Supreme Court, we otherwise would have no hesitation in holding that, as the Tribunal itself has observed that proper explanation for condoning the delay has not been given and sufficient cause is not shown, the only consequence then for the Tribunal was to have rejected the application for condonation of delay.

14. However, much emphasis has been placed by learned counsel for the Respondents on the decision of the Hon'ble Supreme Court in *Inder Singh v/s. State of Madhya Pradesh* in support of her submission that in any fact situation it is always open for the Tribunal to examine the merits of the matter and that if otherwise a particular case is meritorious, it should not be scuttled merely on the basis of limitation. Their Lordships in *Inder Singh v/s. State of Madhya Pradesh (supra)* have observed there can be no quarrel on the settled principle of law that delay cannot be condoned without

sufficient cause.

15. In our opinion, the decision of the Hon'ble Supreme Court in *Inder Singh v/s. State of Madhya Pradesh* has to be appreciated in the peculiar facts of the case involved. The observation is that, where in a particular case merits ought to be examined, it should not be scuttled merely on the basis of limitation, cannot be picked up out of context and in isolation. These observations are made while also recording that there can be no quarrel on the settled principle of law that delay cannot be condoned without sufficient cause. The Hon'ble Supreme Court has further observed in the said case that the dispute over title of land is not between private parties, but rather between the private party and the State. It was further observed that as land in question was taken into possession by the State and allotted for different purposes to the Youth Welfare Department and the Collectorate and has continued to be in the possession of the State, the claim of the State that it is government land cannot be summarily discarded. It was in this background, that their Lordships were of the considered view that the matter required adjudication on its own merits, *inter alia*, considering the fact that a new district had been formed after the initial claim of the appellant of being allotted the land in the years 1975-1976/1977-1978. It was further observed that, "*in the peculiar facts and circumstances of the case, which, at the cost of repetition relate to land claimed by the State as government land and in its possession, persuade us to not interfere with the impugned order.*" It is thus seen that the said decision was

rendered in the peculiar facts of the case.

16. These observations, heavily relied upon by the learned counsel for Respondent No.2, cannot be considered out of context. It is for this reason that we reminded ourselves the nature and purpose of the law of limitation. Law of limitation is founded upon public policy and maximum interest should be in putting an end to litigation by forfeiting the right to remedy rather than the right itself. The power to condone the delay by Limitation Act is discretionary and not as a matter of right as observed by the Hon'ble Supreme Court in *Pathapati Subba Reddy (supra)*. The expression 'sufficient cause' is an elastic expression to be applied but it cannot be stretched to defeat substantial law of limitation.

17. In the present case, learned counsel for the MPSC was at pains to point out that the Tribunal having realised the error it committed in granting the benefits of reservation to undeserving candidate like the present Petitioner that the observations of the Tribunal on the merits while condoning the delay have to be considered.

18. Learned counsel for Respondent No.2-MPSC further submitted that this Court in PIL (st) No.16/2021 alongwith Suo Moto Public Interest Litigation No.1/2023 in ***Khalil Ahmad Hasanmiya Wasta v/s. State of Maharashtra and anr.*** by an order dated 8th December 2023 issued various directions to the MPSC for filling up posts in the Public Health Department. As a result of this

Court expediting the process of recruitment to the 8721 vacant posts, the officer of the Respondent No.2-MPSC was in the midst of completion of such a massive recruitment process which resulted in delay of 12 months in filing the review petition. However, this submission is made for the first time and was not a part of the application for condonation of delay.

19. Learned counsel for the MPSC, therefore, submitted that an opportunity be given to MPSC to file an additional affidavit before the MAT explaining the reason for filing the review petition belatedly. It is submitted by the learned counsel that there exists a sufficient cause for condoning the delay and such an additional affidavit could be preferred by the MPSC before the Tribunal, if the impugned order is set aside and the miscellaneous application remanded back to the Tribunal for fresh consideration. We are conscious of the fact that this submission is made in a petition which is not filed by the MPSC.

20. No doubt the MPSC in the application for condonation of delay has failed to give any explanation for condoning the delay. However, from the impugned order, we find that Tribunal appears to have strongly felt that it has erred in allowing the original application and in that sense found that the the order defeats the reservation policy by giving an undue and unfair advantage to the present Petitioner. In the present case, at the cost of repetition, we may again refer to the Para No.5 of the impugned order which indicates that on

the face of the record the Tribunal committed a mistake in allowing the application in contravention of the reservation policy and therefore the order required to be corrected which the Tribunal felt necessitates a fresh consideration of the reservation policy in the background facts. The Tribunal observed that as a legal issue is raised, though belatedly, it is necessary to deal with the same in order to avoid setting a precedent for recruitment process undertaken in future as a consequence of the order passed by the Tribunal. Thus, we find that the Tribunal appears to have strongly felt that it committed an error in granting the benefit of reservation to the Petitioner who otherwise was not entitled to such benefit. The Tribunal having realised that it committed a mistake as a result of which some person would be given this benefit of reservation meant for the differently abled/deserving candidates from the category, with a view to correct the mistake, considering the importance of the issue involved, adopted such a course. It is in these peculiar facts that though we are inclined to interfere with the impugned order, but in the interest of justice propose to dispose of this petition in the following terms.

21. It is in the peculiar facts and circumstances that we feel that an opportunity should be given to Respondent No.2 as requested to prefer an additional affidavit in the miscellaneous application for condonation of delay showing sufficient cause, as such an approach, in our considered view, will serve the interest of justice. The Petition is partly allowed. The impugned order is, therefore, quashed and set

aside.

22. The parties to appear before the Tribunal on 23rd February 2026 along with copy of this order. Within a period of two weeks from 23rd February 2026, Respondent No.2 shall file an additional affidavit stating the reasons for the delay in filing the application for condonation of delay. The Tribunal is requested to decide the application for condonation of delay afresh and as early as possible, preferably within the period of 8 weeks from 23rd February 2026, after affording an opportunity to the Petitioner to file response to such additional affidavit.

23. Keeping all contentions open, the writ petition is disposed of. No order as to costs.

(S.M. MODAK, J.)

(M.S.KARNIK, J.)