

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 19269 OF 2024

Kishor Balwant Bhawe

...Petitioner

Versus

Ganesh Vasant Gokhale And Anr

...Respondents

Mr. Yashodhan Divekar, a/w Reetam Joshi, i/b Divekar & Co., for the Petitioner.

Mr. Anil Anturkar, Senior Advocate, a/w Kashish Chelani, i/b Harshvardhan Suryavashi, for Respondent No.1.

Ms. S.D. Chipade, AGP for Respondent-State.

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : March 23, 2026

Oral Judgement :

1. Rule. Rule made returnable forthwith and by consent of the parties, heard finally.

2. This Petition impugns an order dated October 1, 2024 passed by the Joint Charity Commissioner Pune Region, Pune, Respondent No.2 (***“Impugned Order”***) condoning a delay of 2,419 days in filing an appeal against an order dated September 3, 2015 (***“2015 Order”***) in Change Report No.1796 of 2013 (***“Report 1796”***).

3. The Report 1796 essentially recorded removal of Respondent No.1, Mr. Ganesh Gokhale (“**Gokhale**”) as a trustee of Bal Sahityalaya Trust (“**Trust**”).

4. Gokhale filed an appeal on June 17, 2022 contending that the 2015 Order in Report 1796 came to his knowledge only on May 18, 2022, when Advocates for the Petitioner, Kishor Balwant Bhawe (“**Bhave**”) filed the said report in the course of other pending change report proceedings (in relation to Change Report No.910 of 2015). It was his contention that immediately thereafter, nearly within a month, he had filed the Appeal. The Impugned Order records condonation of the delay on this ground, and permits the 2015 Order to be challenged in appeal.

5. Having heard Mr. Yashodan Divekar on behalf of the Bhawe and Mr. Anil Anturkar, Learned Senior Advocate on behalf of Gokhale, and having examined the record with their assistance, I am unable to see how the delay could have been condoned.

6. The core grievance in the Appeal is that the person who passed the 2015 Order was without jurisdiction, inasmuch as the

applicable roster for the matter ought to have led to the matter being placed before the Deputy Charity Commissioner, Pune and not before the Assistant Charity Commissioner (I), Pune, who passed the 2015 Order. It is along with such Appeal that the Application for condonation of delay was filed by Gokhale, contending that the order needs to be recalled since it is evidently without jurisdiction and that Gokhale had been unaware of the 2015 Order all along.

7. However, it is seen from the record that Bhave had specifically taken up various grounds in opposition to the condonation of delay as to why the delay of nearly seven years should not be condoned. Among others, it had been pointed out to the Learned Joint Charity Commissioner that even in the intervening period during the course of the delay, Gokhale would have had notice of the 2015 Order inasmuch as Gokhale was a party to Writ Petition No.10281 of 2018, in which the 2015 Order formed part and parcel of a rejoinder filed in those proceedings.

8. Gokhale ought to have had notice of the same, Bhave contended, at least by November 30, 2019 when the rejoinder was

filed. Even if one were to examine the delay only from such date, the Appeal and the attendant condonation application filed in June 2022 would indicate that sufficient cause for condonation of two and half years of delay has not been made out. There is not a whisper of consideration of this issue in the Impugned Order.

9. To counter this, Mr. Anturkar on behalf of Gokhale would point out that there is nothing to show that the rejoinder has actually been served on Gokhale and the onus would lie on the person choosing to contend that the rejoinder had been served. To Mr. Divekar's contention that Gokhale has not even denied on oath the receipt of the rejoinder, either in the appellate proceedings or in this Writ Petition, Mr. Anturkar would also contend that at this distance of time, Gokhale cannot be expected to demonstrate and affirm on oath one way or the other, and it was Bhave's burden to show that he had indeed served the rejoinder, with the exhibited 2015 Order, on Gokhale.

10. Mr. Anturkar would submit that in the jurisdiction under Article 227, an approach of minimal interference and of advancing the cause of justice ought to be adopted and therefore discretion of

this Court need not be exercised to interfere with the Impugned Order. Considering the serious prejudice to Gokhale that would be occasioned as indicated in the Impugned Order, Mr. Anturkar would contend, this Court should be reluctant to interfere with the delay having been condoned.

11. Having reflected on the competing considerations canvassed by the Learned Advocates, in my opinion, the Impugned Order is simply unsustainable. The Impugned Order simply does not at all deal with the say presented by Bhave. At the least, the Impugned Order ought to have dealt with how Bhave would point to Gokhale having knowledge of the 2015 order at least in 2019 if not right away in 2015. Indeed, Gokhale has simply contended that he got to know about the 2015 Order only in 2022 when it was served on him in the course of dealing with Change Report No. 911 of 2015 and that until then he was unaware of the 2015 Order, but when Bhave has raised the contention of how he could have known in 2019, at the least, the Impugned Order ought to have dealt with it. The Impugned Order is singularly silent in respect of the opposition to the condonation presented by Bhave. It does not

contain a whisper of dealing with the contention about the rejoinder in the Writ Petition also giving notice to Gokhale in 2019, about the 2015 Order.

12. The delay is an extraordinarily long one – for nearly seven-years. What is considered to be in the interest of justice can cut both ways – condoning such an inordinate delay and raking up an old and closed matter would also undermine the cause of justice and inflict prejudice to the party affected by the condonation of delay. A party is entitled to expect closure on an issue when the right to agitate against such closure is not exercised within the stipulated time or reasonable extended time.

13. In these circumstances, considering the contents of the Impugned Order, I am not satisfied that the Impugned Order is a reasonable one, giving articulate reasons for condonation. At the least, the Impugned Order ought to have dealt with the submissions made before the Learned Joint Charity Commissioner by Bhave. That not having been done, I am afraid a case has been made out to hold the Impugned Order to be arbitrary for not dealing with relevant considerations presented to the Learned

Joint Charity Commissioner in order to condone the inordinate delay as long as seven-years.

14. There is another reason that informs my approach to this matter. When two warring factions of the Trust are fighting over who controls the trust over the years, it is only reasonable to expect great vigilance from each side in relation to studying every move of the other faction, particularly when a change report is accepted by the Charity Commissioner's office and forms part of the register of the Charity Commissioner. When the party claiming ignorance of the 2015 Order is admittedly and evidently an active competitor for control and purports to himself be a reporting trustee in relation to certain change reports, the least one would reasonably expect is that such party would have had knowledge of a development that took place in 2015. The ground that the 2015 Order could be challenged on the basis of the roster having been violated could well be an innovative afterthought.

15. In these circumstances, a case has been made out to interfere with the Impugned Order. The condonation of delay of 2419 days is indeed extraordinary and is not reasonable and

justifiable. Therefore, in exercise of the extraordinary writ jurisdiction of this Court, the Impugned Order is interfered with and is *quashed and set aside*.

16. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]