

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI**  
**BENCH AT AURANGABAD**

**MISC. APPLICATION NO. 160 OF 2019**  
**WITH**  
**ORIGINAL APPLICATION ST. NO. 627 OF 2019**

DIST. : BEED

Ashok s/o Bhanudas Nagargoje, )  
Age. 55 years, Occu. : Service, )  
R/o Kashida Niwas, Adarsh Nagar, )  
D.P. Road, Beed, Tq. & Dist. Beed. ) .. **APPLICANT**

**V E R S U S**

1. The State of Maharashtra, )  
Through its Secretary, )  
Co-operative Department, )  
Mantralaya, Mumbai – 32. )
2. The Commissioner-cum Registrar,)  
Co-operative Societies, )  
Maharashtra State, Pune. )
3. The Divisional Joint Registrar, )  
Co-Operative Societies (Audit), )  
Aurangabad. )
4. The Special Auditor of Accounts, )  
Co-Op. Society, Beed. ).. **RESPONDENTS**

-----  
APPEARANCE :- Shri S.S. Dambe, learned Advocate for the  
applicant.

: Smt. Priya R. Bharaswadkar, learned  
Presenting Officer for the respondents.

-----  
**CORAM : Hon'ble Shri B.P. Patil, Acting Chairman**

**RESERVED ON : 6<sup>th</sup> December, 2019**

**PRONOUNCED ON : 7<sup>th</sup> December, 2019**  
-----

**ORDER**

1. The applicant has filed the present application for condonation of delay of 181 days caused for filing the accompanying Original Application St. no. 627/2019 challenging the order passed by the respondent no. 2 on 1.4.2017 and the order dtd. 20.9.2017 passed by the respondent no. 1.

2. It is contention of the applicant that the impugned order came to be passed on 20.9.2017 by the respondent no. 1, but it was forwarded to him by the ordinary post, which was received to him on 6.10.2017. He was supposed to file the accompanying O.A. on or before 5.10.2018. It is his contention that he took search of the Advocate at Aurangabad for presenting his O.A. before the appropriate forum. Thereafter he visited the office of the concerned Advocate at Aurangabad on 3-4 occasions for providing the necessary information and the documents. Thereafter the said Advocate prepared the draft of O.A. and forwarded it to him in the second week of September, 2018 and asked him to visit his office for finalizing the same. But the applicant felt ill during the period from 15.9.2018 to 5.10.2018. He took medical treatment. Therefore he could not able to approach the Advocate at Aurangabad. Because of his ill health the delay of 181 days has been caused for filing accompanying

O.A. Immediately after recovery of health he filed the accompanied O.A., but during that period delay of 181 days has been caused. Therefore he prayed to condone the delay of 181 days caused for filing the accompanying O.A. for the above reasons by filing the present M.A.

3. Respondent nos. 1 to 4 have filed their affidavit in reply and resisted the contentions of the applicant. It is their contention that the applicant has not submitted any medical certificate regarding his disease and bed rest. He has not explained the delay caused for filing the accompanying O.A. by giving satisfactory reasons. Delay has not been properly explained. Therefore they prayed to dismiss the M.A. The delay caused for filing the accompanying O.A. is deliberate and intentional and therefore they prayed to reject the M.A.

4. I have heard the arguments advanced by Shri S.S. Dambe, learned Advocate for the applicant and Smt. Priya R. Bharaswadkar, learned Presenting Officer for the respondents. I have also gone through the documents placed on record.

5. Learned Advocate for the applicant has submitted that the respondent no. 1 passed the order on 20.9.2017 in the appeal preferred by the applicant, but information in that regard was

given to him by ordinary post. The said order was served on the applicant on 6.10.2017 by the ordinary post. Therefore prescribed period for filing accompanying O.A. shall be commenced from the date of communication of the decision i.e. from 6.10.2017. Thereafter the applicant ought to have filed the O.A. on or before 5.10.2018. Thereafter the applicant approached his Advocate time and again and instructed him to file O.A. The said Advocate prepared the draft of the O.A. and forwarded it to the applicant in the second week of September, 2018. Thereafter the applicant fell ill during the period from 15.9.2018 to 5.10.2018. Therefore he could not file the O.A. in time. Immediately after recovery from ill-health the applicant approached the Advocate and filed the accompanying O.A. on 20.3.2019. For the reasons stated above the applicant was unable to file the accompanying O.A. in time. The said delay of 181 days caused for filing accompanying O.A. was not intentional or deliberate. Therefore he prayed to allow the present M.A.

6. Learned Presenting Officer submits that the applicant has not given satisfactory reasons for condonation of 181 days delay caused for filing the accompanying O.A. No documentary evidence has been produced on record regarding illness of the applicant which prevented him to file the O.A. in time. The

applicant has given reasonable and sufficient cause for condoning the delay. In absence of sufficient grounds the delay of 181 days caused for filing the accompanying O.A. cannot be condoned. Limitation of one year period has been provided for filing the O.A. The accompanying O.A. has not been filed in time. Thereafter also he has not filed the O.A. immediately. The delay is of 181 days i.e. more than six months and it has not been explained properly. Therefore he prayed to reject the M.A.

7. On perusal of the documents it reveals that the applicant has challenged the order dtd. 20.9.2017 passed in his appeal by the respondent no. 1. Accompanying O.A. has to be filed within one year therefrom, but the applicant has filed the accompanying O.A. along with M.A. for condonation of 181 days delay caused for filing the accompanying O.A. on 20.3.2019. There was delay of more than six months for filing the accompanying O.A. Only ground raised by the applicant for condonation of that delay is that the applicant fell ill during the period from 15.9.2018 to 5.10.2018 and therefore he could not be able to file the accompanying O.A. in time. There is nothing on record to show that the applicant was ill during the period from 15.9.2018 to 5.10.2018 and he was prevented to approach the Advocate because of his ill health. Learned Advocate for the applicant has

made submissions at bar that the applicant was on duty during that period and he was discharging his duty. This shows that the applicant was not ill during that period and he was not in a position to approach his Advocate during that period. Not only this, there is nothing on record to show that the applicant was admitted in the Hospital during that period and therefore he could not approach his Advocate for filing the O.A. Therefore the grounds raised by the applicant in that regard cannot be accepted. Even if it is presumed that the applicant was ill during the period from 15.9.2018 to 5.10.2018 as stated in the application, he could have filed the O.A. immediately after recovery of ill-health i.e. immediately after 5.10.2018. But he had not filed O.A. immediately thereafter. It reveals from the above facts that the applicant was not ill and he was discharging duties during that period, but he has not filed the O.A. in time deliberately. The delay of 181 days caused for filing the accompanying O.A. is intentional and deliberate and therefore it cannot be condoned. The applicant has not explained the delay by giving satisfactory reasons. In the absence of satisfactory reasons the delay of 181 days caused for filing accompanying O.A. cannot be condoned. Applicant has not given sufficient reasons to condone the delay and therefore delay of 181 days caused for filing accompanying Original Application cannot be condoned.

There is no merit in the Miscellaneous Application. Resultantly the Misc. Application deserves to be dismissed.

8. In view of the discussion in foregoing paragraphs the M.A. no. 160/2019 stands rejected. Consequently the registration of accompanying O.A. St. No. 627/2019 is refused. There shall be no order as to costs.

**(B.P. PATIL)**  
**ACTING CHAIRMAN**

**Place : Aurangabad**  
**Date : 7<sup>th</sup> December, 2019**

ARJ-M.A. NO. 160-2019 WITH O.A.ST. NO. 627-2019 BPP (CONDONATION OF DELAY)