

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

**MISCELLANEOUS APPLICATION NO.574 OF 2019
IN
ORIGINAL APPLICATION NO.1032 OF 2019**

Shri Ranjeet Shantaram Kamble,)
Age 41 years, Oc. Agriculture, R/at Alegaon Paga,)
Taluka Shirur, District Pune)..Applicant

Versus

1. Sub Divisional Magistrate-cum-Sub Divisional)
Officer, Sub Division Pune, Pune,)
Old Jilha Parishad, 3rd floor, Near Sasoon)
General Hospital, Pune)
2. Vishal Bapu Avchite,)
Age 27 years, Occ. Agriculture,)
3. Laxman Vithal Kamble,)
Age 33 years, occ. Service,)
Respondents No.2 & 3 R/at Alegaon Paga,)
Taluka Shirur, District Pune)..Respondents

Shri S.B. Rohile – Advocate for the Applicant

Ms. Neelima Gohad – Presenting Officer for Respondent No.1

Shri A.S. Kaningdhwaj – Advocate for Respondent No.2

None for Respondent No.3

CORAM : Shri A.P. Kurhekar, Member (J)

DATE : 23rd March, 2021

J U D G M E N T

1. Heard Shri S.B. Rohile, learned Advocate for the Applicant, Ms. Neelima Gohad, learned Presenting Officer for Respondent No.1 and Shri A.S. Kaningdhwaj, learned Advocate for Respondent No.2. None for Respondent No.3.

2. This MA is filed to condone the delay of 299 days caused in filing OA No.1032/2019 wherein challenge is to the appointment of Police Patil.

3. In OA applicant has challenged the order dated 18.12.2017 whereby respondent no.1 Sub Divisional Officer, Sub Division Pune had appointed respondent no.2 as Police Patil of village Alegaon, Taluka Shirur, District Pune. Applicant had also participated in the process of appointment of Police Patil, however, he did not succeed. After appointment of respondent no.2 by order dated 18.12.2017, he approached SDO by filing objections/representation dated 15.6.2018, 3.9.2018, 1.10.2018 and 6.3.2019 alleging that respondent no.2 had suppressed certain material facts and has manipulated date of birth and thereby played fraud. Since objections made by applicant were not responded, the applicant had filed Writ Petition No.10426 of 2019 before the Hon'ble High Court. When the matter was taken up for hearing on 26.9.2019 Hon'ble High Court granted liberty to the applicant to withdraw writ petition having found that subject pertain to the jurisdiction of Tribunal. Hon'ble High Court accordingly passed following order on 26.9.2019:

"1. Heard learned counsel for the petitioner.

2. Learned AGP raised an objection that the controversy involved relates to the appointment of Police Patil and therefore Maharashtra Administrative Tribunal has jurisdiction to deal with the application.

3. *Faced with this difficulty, learned counsel for the petitioner seeks leave to withdraw the petition with further liberty to approach Maharashtra Administrative Tribunal by way of filing original application. All contentions are kept open.*

4. *The time spent by the petitioner bonafide in approaching the State Government and thereafter this Court may be favourably considered by the Maharashtra Administrative Tribunal in the event there is delay in filing the original application.*

5. *With these observations, the petition is allowed to be withdrawn with liberty.”*

4. In view of the directions of the Hon'ble High Court, applicant has filed present OA on 17.10.2019 along with an application for condonation of delay.

5. Ld. Advocate for the applicant prayed to condone the delay in view of order passed by Hon'ble High Court which is reproduced above and submitted that applicant was pursuing remedy with the concerned authorities under bonafide belief and therefore time spent be excluded.

6. Whereas Ld. PO and Ld. Advocate for Respondent No.2 opposed the application for condonation of delay contending that no sufficient cause is made out to condone the delay.

7. Needless to mention that while considering application for condonation of delay, Courts should adopt justice oriented approach and where delay is reasonably explained and there is no negligence on the part of the applicant, delay has to be normally condoned so as to decide the matter on merit.

8. Now turning to the facts of the present case, it is explicit that applicant was trying to redress grievance by making representation and by filing objections with SDO. However, it was not responded and therefore ultimately he approached Hon'ble High Court. While granting permission to withdraw the writ petition the Hon'ble High Court has specifically observed that the time spent by the applicant bonafide in approaching the authorities and the Court may be favourably considered by the Tribunal.

9. Needless to mention that in terms of Section 14 of the Limitation Act, time spent in pursuing remedy before the authority/Court bonafide has to be excluded if ultimately it is noticed that the said Court had no jurisdiction.

10. In the present case, it is obvious from record that applicant was pursuing his remedy with the authorities and ultimately approached the Hon'ble High Court. As such he cannot be said negligent in taking steps to challenge the impugned order. Hon'ble High Court has indicated that in such situation delay can be condoned.

11. In view of the above, I am inclined to condone the delay caused in filing OA.

12. MA is therefore allowed. No order as to costs.

Sd/-

(A.P. Kurhekar)
Member (J)
23.3.2021

Dictation taken by: S.G. Jawalkar.