

Appellate Tribunal for Electricity
(Appellate Jurisdiction)

I.A. No. 141 of 2013 AND I.A. No.142 of 2013

IN
DFR No.413 of 2013

Dated: 03rd May,2013

**Present : HON'BLE MR. JUSTICE M KARPAGA VINAYAGAM,
CHAIRPERSON
HON'BLE MR. RAKESH NATH, TECHNICAL MEMBER**

In the Matter of:

- 1) Shri Ganpat Khanderao Farande**
- 2) Shri Subhash Khanderao Farande**
Ozarde, Taluka Wai
Dist: Satara, Maharashtra

...Appellant(s)/Applicant(s)

Versus

- 1. The Executive Engineer**
Maharashtra State Electricity Transmission Co Ltd.,
EHV Construction-cum-O&M Zone,
Viswhrambag, Sangli-411 005 and others

...Respondent(s)

Counsel for the Appellant(s) : - Absent.

Counsel for the Respondent(s): -

ORDER

**PER HON'BLE MR. JUSTICE M. KARPAGA VINAYAGAM,
CHAIRPERSON**

1. Shri Ganpat Khanderao Farande and Shri Subhash Khanderao Farande are the Appellants/Applicants herein.
2. They filed this Appeal as against the order of the Maharashtra State Commission passed on 31st July,2012.
3. This Appeal had been filed on 25th Feb.2013 with a delay of 204 days. Along with the Appeal, they filed an Application in I.A. No.142/2013 to condone the delay of the said delay of 204 days in filing the Appeal.
4. The Registry, on noticing that there were some defects, issued defect notice to the Appellants asking the Appellants to rectify the defects and to re-file the Appeal within 7 days.
5. However, the same was not refiled within the time. There is a delay of 36 days in re-filing the Appeal. Hence, the Applicants filed another Application in I.A. No.141/2013 to condone this delay of re-filing.

6. Both the Applications came up for hearing on 30th April,2013. When the matter was called, neither the Applicants nor their Counsel were present. Therefore, we adjourned the matter to 2.5.2013.

7. When the matter came up on 2.5.2013 again, the Counsel as well as the Applicants were absent. Therefore, we have gone through both the Applications for condoning the delay and passed the following order:-

The explanation given by the Applicants to condone the delay of 204 days if filing the Appeal is as follows:-

- a) The main order was passed by the State Commission on 31.7.2012.
- b) The Appellants/Applicants being poor farmers doing business of jaggery took some time to consult local lawyers who suggested that the Appeal would lie before the Appellate Tribunal at New Delhi. Therefore, the Appellants/Applicants came to Delhi and submitted the papers to the lawyer in Delhi. It took some time for translation of documents from Marathi to English.

c) The Hon'ble Supreme Court has held that the expression "sufficient cause" used in the section has to be elastic enough to enable the Courts to apply the law in meaningful manner in order to serve the ends of justice. Due to the financial constraints and lack of appropriate contacts at a far off place i.e. Delhi, the delay of 204 days had occurred. The said delay is beyond the control of the Appellants/Applicants. Therefore, the same may be condoned."

8. Now let us see the explanation given for the delay occurred in re-filing the Appeal.

"The delay has occurred because of the circumstances beyond the control of the Appellants/Applicants. After receiving the letter from Registry regarding the defects, the Counsel for the Appellants/Applicants, cured the defects in papers and contacted the Appellants/Applicants for obtaining the signature of the Appellants/Applicants. It took considerable time because the Appellants/Applicants are residing in a very remote place in Maharashtra. Under these circumstances the learned Counsel re-filed the Appeal after a delay of 36 days."

9. We have carefully gone through the records, Applications and the affidavit filed by the Appellants/Applicants. At the outset, it has to be stated that the Applicants as well as their

Counsel have not been diligent through out in filing the Appeal even though the main order was passed on 31.7.2012. The Appellants/Applicants filed the Appeal along with an Application to condone the delay of 204 days only on 25.2.2013. There are no details with regard to long delay that is between 31.7.2012 and 25.2.2013 excepting to state that the delay was occurred due to financial constraints.

10. Similarly, the explanation given for the delay in re-filing also does not show convincing reasons for such a delay. It is true that the Hon'ble Supreme Court has held that Courts have to be liberal in the matter of condonation of delay so as to serve the ends of justice. But the Hon'ble Supreme Court in the very same decisions, has clearly laid down that if the parties are negligent and the explanation for the inordinate delay is not acceptable, the said inordinate delay cannot be condoned.
11. In this case, there is not only inordinate delay but also Counsel for the Appellants/Applicants have been absent both on 30th April, 2013 and on 2.5.2013. Therefore, we are not inclined to condone the delay both in filing the Appeal as well as re-filing the Appeal in the absence of the satisfactory explanation.

12. Thus, these Applications are dismissed. Consequently, the Appeal also is rejected.

(Rakesh Nath)
Technical Member

(Justice M. Karpaga Vinayagam)
Chairperson

Dated:03rd May, 2013

✓ ~~REPORTABLE/NON-REPORTABLE~~