IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.7461 OF 2018

(ARUN DADAJI MAHADOLE & OTH..VS.. STATE OF MAH. THR. URBAN DEVELOPMENT DEPT. & OTH.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

Shri M.P.Khajanchi, Advocate for the Petitioners.
Shri D.P.Thakre, Addl. G.P. for Respondent Nos.1 & 2.
Shri M.I.Dhatrak, Advocate for Respondent No.3.

CORAM : ANIL S. KILOR, J.
DATED : JULY 31, 2023.

1. Heard.

2. The order of the Hon'ble Minister, communicated vide covering letter dated 25/09/2018 issued by Desk Officer, Government of Maharashtra, rejecting the appeal preferred by the petitioner, is under challenge in this writ petition.

3. The matter pertains to grant of sanction to the building plan and issuance of notice under Section 53 of the Maharashtra Regional and Town Planning Act, 1966. On perusal of the record it reveals that the appeal was heard on 25/10/2017 and it was decided in the month of August 2018 i.e. after about 10 months. Moreover, the impugned order shows that after the hearing was closed on 25/10/2017 the Commissioner, Municipal Corporation, Chandrapur submitted his comments on the appeal on 27/08/2018. The record does not show that the copy of the submissions of the Municipal Commissioner was supplied to the petitioner. Moreover, the record does not show that after

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receiving the said submissions/ comments of the Municipal Commissioner, the hearing was conducted and thereupon the order was passed.

4. The Division Bench of this Court in the case of *Shivsagar Veg Restaurant Vs. Asstt. Commissioner of Income Tax*[1], has observed thus:

> *"11. Having said so, the inordinate unexplained delay in pronouncement of the impugned judgment has also rendered it vulnerable.*
>
> *12. The learned counsel for the appellant has referred to various judgments of the Apex Court as well as of this Court and various other High Courts to show that only on the ground of delay in rendering the judgment for period ranging from four months to 10 months, judgments were held to be bad in law and set aside. It has been held time and again that justice should not only be done but should appear to have been done and that justice delayed is justice denied. Justice withheld is even worse than that. The Apex Court in the case of Madhav Hayawadanrao Hoskot v. State of Maharashtra, MANU/SC/0119/1978 : 1978 CriLJ1678 had an occasion to take serious note of the prejudice normally caused to the litigant due to delayed delivery or pronouncement of the judgment for the reasons which are not attributable either to the litigant or to the State or to the legal profession.*
>
> *13. In R.C. Shama v. Union of India, 1976 (3) SCC 474, the Apex Court after noticing absence of the provision in the Code of Civil Procedure in the matter of time frame in delivery of judgment, observed as under :*
>
> > *"Nevertheless, we think that unreasonable delay between hearing of arguments and delivery of a judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable even where written arguments are submitted. It is not unlikely that some points which the litigant considers important may have escaped notice. But, what is more important is that litigants must have complete*

1 2008(232)ELT780(Bom.)

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> *confidence in the results of litigation. This confidence tends to be shaken if there is excessive delay between hearing of arguments and delivery of judgments. Justice, as we have often observed, must not only be done but must manifestly appear to be done."*
>
> *14. Recently, the Apex Court in the case of Anil Rai v. State of Bihar, has also reconsidered the serious issue of delayed delivery of judgment by some of the High Courts and laid down certain guide-lines in the matter of pronouncement of judgments by the High Courts.*
>
> *15. In the case of Devang Rasiklal Vora v. Union of India, MANU/MH/0640/2003 : 2003ECR658(Bombay), the Division Bench of this Court to which one of us is a party (Daga, J.) had an occasion to issue directions to the President of the Central Excise and Gold (Control) Appellate Tribunal, Mumbai to frame and lay down the guide-lines on the similar lines as were laid down by the Apex Court in the case of Anil Rai v. State of Bihar (supra) and to issue appropriate administrative directions to all the Benches of the said Tribunal. The similar guide-lines can conveniently be laid down for the courts, tribunals and quasi-judicial authorities prescribed under the Income Tax Act, 1960 ("Act" for short) so as to prevent delayed delivery of the judgment and/or order which at the end of the day results in denial of justice as happened in the instant case."*

5. Similarly, in the case of Infra *EMCO Ltd. Vs. Union of India*[1], has observed thus:

> *"7. We have not relegated the Petitioner to the alternate remedy of filing an appeal under the Act, as we find that the impugned order is against the parameters laid down by this Court in Shivsagar Veg. Restaurant (supra).*
>
> *8. In the aforesaid circumstances, we set aside the impugned order dated 31 July 2013 and direct the Additional Commissioner of Central Excise and Customs to pass a fresh order after granting the Petitioner an opportunity of personal hearing. Needless to add that the resultant adjudication order would be passed within a reasonable time after the conclusion of the hearing granted to the Petitioner. ..."*

1 2015(319)ELT28(Bom.)

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7. From the above referred judgments it is evident that unreasonable delay between hearing of arguments and delivery of a judgment, unless explained by exceptional or extraordinary circumstances, is highly undesirable even where written arguments are submitted. It is not unlikely that some points which the litigant considers important may have escaped notice. But, what is more important is that litigants must have complete confidence in the result of litigation. This confidence tends to be shaken if there is excessive delay between the hearing of arguments and delivery of judgments.

8. In the circumstances, I am of the opinion that instead of deciding on merits, it needs to be remanded back to the respondent No.2 for deciding the appeal afresh. Accordingly, I pass the following order:

i) The Writ Petition is partly allowed.

ii) The impugned order dated 25/09/2018 passed by respondent No.2 is hereby quashed and set aside.

iii) The matter is remanded back to the respondent No.2-Hon'ble Minister of Urban Development Department, Maharashtra State to decide the appeal afresh on its own merits, after hearing and after giving sufficient opportunity to both the parties.

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iv) Both the parties shall appear before the respondent No.2-Hon. Minister on 22/08/2023 at 12:00 noon.

v) The Respondent No.2-Hon. Minister is directed to decide the appeal, on its own merits, within one month from the date of appearance of the parties before him.

The Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE

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