HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HONOURABLE SMT JUSTICE TIRUMALA DEVI EADA

WRIT PETITION NO: 34050 OF 2024

Between:

The Managing Director, Nath Seeds Company Ltd., Paithan Road, Itkheda, Aurangabad, Maharashtra, Represented by its Authorized Officer, M. Gopi, S/o. Lingaiah, aged 37 years, R/o. 1-126, Vaddera Colony, Prashanth Nagar, Siddipet, Telangana 502103

...PETITIONER

AND

1. T.Dada Rao, S/o: Vishwanath, Aged 48 years, Occ. Agrl. R/o Arli-T Village, Bheempur Mandal, Adilabad District.
2. Annadata Seeds, Dealers in Seeds and Pesticides, Rep. by its Proprietor, D.No.3-1-277/8, Besides Mamatha Lodge, N.H.No.7, Adilalabad.
3. Telangana State Consumer Disputes Redressal Commission,, Hyderabad Rep. by its Registrar.

3rd respondent is a formal party

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue Writ Order Direction particularly in the nature of Writ of Certiorari calling for the records in relating to Order passed in F.A.I.A. No. 1899 of 2023 and F.A.I.A. No. 1900 of 2023 in F.A. SR. 750 of 2023 on the file of 3rd Respondent filed against the Orders of the District Consumer Disputes Redressal Commission, Adilabad in C.C.No.238/2018 and set aside the same.

Counsel for the Petitioner: SRI MAHADEV ANYARAMBHATLA

Counsel for the Respondent No.3: GP FOR SUPPLIES

The Court made the following: ORDER

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

AND

HON'BLE SMT JUSTICE TIRUMALA DEVI EADA

WRIT PETITION No.34050 OF 2024

ORDER : *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

When the matter is taken up for hearing, learned counsel appearing for the petitioner had informed the Court that the issue raised in the present Writ Petition is squarely covered by the order, dated 05.09.2024, passed by the Division Bench of this Court in W.P.No.14027 of 2024 and the said Writ Petition was allowed by setting aside the order, dated 08.04.2024 passed by the Telangana State Consumer Disputes Redressal Commission, Hyderabad (for short, 'the State Commission'). Following the aforesaid order, the present Writ Petition deserves to be allowed.

2. Learned Government Pleader appearing for respondent No.3 did not dispute the said fact.

3. In view of the said submissions, this Court is of the considered view that the present Writ Petition also deserves to be allowed following the aforesaid order, dated 05.09.2024, passed by the Division Bench of this Court in W.P.No.14027 of

2024, and that the order, dated 08.04.2024 passed in FA.IA.Nos.1899 and 1900 of 2023 in F.A.No.750 of 2023 by the State Commission is liable to be set aside, subject to the condition of the petitioner paying costs of Rs.2,000/- (Rupees two thousand only) before the State Commission, within a period of two (2) weeks from the date of receipt of a copy of this order.

4. Accordingly, the Writ Petition is allowed and the order, dated 08.04.2024 passed in FA.IA.Nos.1899 and 1900 of 2023 in F.A.No.750 of 2023 by the State Commission is set aside. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

SD/- A.H.S.GOWRI SHANKAR
ASSISTANT REGISTRAR

//TRUE COPY// **SECTION OFFICER**

To,

1. The Proprietor, Annadata Seeds,, Dealers in Seeds and Pesticides, D.No.3-1-277/8, Besides Mamatha Lodge, N.H.No.7, Adilalabad.
2. The Registrar, Telangana State Consumer Disputes Redressal Commission,, Hyderabad.
3. One CC to Sri Mahadev Anyarambhatla, Advocate [OPUC]
4. Two CC to The GP for Civil Supplies, High Court for the State of Telangana, at Hyderabad[OUT]
5. Two CD Copies

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(Along with the Copy of Order dated 05.09.2024 In W.P.No.14027 of 2024)

HIGH COURT

DATED:17/06/2025



ORDER

WP.No.34050 of 2024

ALLOWING THE WRIT PETITION

WITHOUT COSTS

8

THE HON'BLE SRI JUSTICE SUJOY PAUL

AND

THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT PETITION No.14027 of 2024

ORDER: *(per Hon'ble Sri Justice Namavarapu Rajeshwar Rao)*

This writ petition is filed seeking the following relief:

> *"..... to issue writ, order direction particularly in the nature of Writ of Certiorari calling for the records in relating to Order passed in F.A.I.A.No.1879 of 2023 and F.A.I.A.No.1880 of 2023 in F.A.(SR).740 of 2023 on the file of 4th respondent filed against the Orders of the District Consumer Disputes Redressal Commission, Adilabad in C.C.No.9 of 2018 and set aside the same".*

2. Learned counsel appearing for the petitioner submits that aggrieved by the order of the District Consumer Commission, Adilabad, in C.C.No.9 of 2018, the petitioner preferred an appeal in F.A.(Sr).No.740 of 2023. Initially, the appeal was filed through the earlier counsel. Due to his workload, the earlier counsel could not pay proper attention to the batches of appeals filed by him. In such circumstances, the petitioner has changed his counsel and requested the new counsel to attend to all such cases filed by the then counsel. Accordingly, the new counsel took the return of the bundles and, having noted the objections

raised by the office, complied with the said objections and re-submitted the file with an application to condone the delay in the re-presentation of the appeal indicating the aforesaid reasons.

3. Learned counsel appearing for the petitioner further submitted that notwithstanding the application to condone delay. However, in similar matters, the Telangana State Commission has been condoning the delay in representing the appeals by the very same petitioner, and despite bringing such a fact to the notice of the State Commission, without considering the same, the I.As. were dismissed. Consequently, the appeal was also rejected by the impugned order dated 08.04.2024.

4. Learned counsel appearing for the petitioner further submitted that it is common knowledge that if there is any delay in the re-presentation of the appeals, normally, the delay occurs in the office of the Advocate to whom the matter is entrusted. Such inadvertent delays in the re-presentations are caused due to the mixing-up of files and mistakes of the clerks in the advocate's office. Thus, there is a justification for condoning the delay in re-

presentation of the appeal when there is a bonafide mistake on the part of the advocate or his office, including the clerk. If such delay is not condoned, it would cause irreparable loss to the petitioner, and there would be no justification for putting the petitioner's interest in jeopardy on account of the mistake made by the Advocate. The said delay is neither deliberate nor wanton but merely because of the change in counsel. Therefore, appropriate orders be passed in the writ petition by setting aside the order dated 08.04.2024 passed in F.A.I.A.Nos.1879 of 2023 and 1880 of 2023 in F.A.(Sr.)No.740 of 2023 and allow the writ petition.

5. Heard the learned counsel appearing for the petitioner and perused the record.

6. This Court, having considered the said submission made by the learned counsel for the petitioner, is of the hat view that in the instant case, the State Commission dismissed F.A.I.A.Nos.1879 of 2023 and 1880 of 2023 in F.A.(Sr.).No.740 of 2023 on 08.04.2024 by observing as follows :-

> *"8. The affidavit and petition in I.A.1879/2023 was filed by M/s R.K.Sanghi. The seal of the office goes to show that it was filed*

on 01.08.2022, but there is no IOTA of evidence to show that it was filed on 26.07.2022 as claimed by the petitioner. The cause for delay of 425 days is the misplacement of the bundle. It is not mentioned, where it was misplaced i.e. either in the office of Advocate or in the office of Petitioner itself. It is also categorically mentioned that the counsel has given no objection for procuring the files, it took time, therefore, there is a delay. If the same is correct, in all likelihood, M/s Rakesh Sanghi, might have given the bundle to the petitioner either on 26.07.2022 or on 01.08.2022 or even before 26.07.2022. There is no clarity on this aspect. It is not mentioned from which date onwards the delay of 425 days was counted because, there is no endorsement of the office that on what date the petition was returned for compliance. The petitioner has counted the delay from 15.06.2022, but the date of its return is mentioned as 26.07.2022. But, as per the office seal, the FA was represented on 01.08.2022. It goes to show that the petitioner mentioned the dates of his choice as he thinks fit, but, the record is otherwise.

9. The bundle goes to show that on 01.08.2022, the petition was represented but, it was again returned on 05.09.2022 with an objection that five more copies of delay petitions are required to be filed. On 16.11.2023, the FA was again represented by complying with objection of furnishing four more copies of the petition."

.....

"11. It is the arguments of petitioner counsel that this Commission has already condoned some of the petitions of the same petitioner in representing the appeal as such, these petitions are also shall be allowed in the same lines. We are of the view that the above argument cannot be appreciated for the

two reasons, viz.:- (i) the misplacement of bundle and again tracing out the same is difficult to assess. (ii) If a persons' memory once lost, it is difficult to assess when it will again surface in the mind. It may be few days, months and years. However, if once the bundle is traced out, again forgetting the same for another 440+ days is difficult to believe. So, we are of the view that there are no bonafides in the case on hand, more so, when two petitions are filed with the delay of 400 days. In these circumstances, this Commission condoning the delay in other petitions, where one petition is with major delay and another is with few days delay cannot be taken as yardstick to allow the present petitions. The substantial rights accrued to the R1/Complainant will be at stake, when the petitions are filed without bonafides.

12. In the result, the both the petitions in IA 1879/2023 and 1880/2023 are dismissed without costs. Consequently, the appeal also stands rejected."

7. As rightly contended by the learned counsel for the petitioner in respect of the same petitioner, some of the petitions filed for condonation of delay in representing the appeals were allowed, subject to the imposition of costs. However, in the present case, the delay in re-presentation of the appeal is not condoned. The petitioner stated that he had changed his earlier counsel because of his heavy load of work, as he could not pay proper attention to the batch of appeals filed by him. The new counsel attended to

all such cases filed by the earlier counsel. The new counsel, after noting the objections raised by the office, complied with the same and resubmitted the file with applications to condone the delay in re-presentation of the appeal. The petitioner also stated that the delay occurred due to the misplacement of the bundle. The observation of the State Commissioner was that it was not mentioned where it was misplaced. It is needless to state that had it really been known to the petitioner where it was misplaced, the delay would not have been occurred. A party does not stand to gain anything by deliberately delaying the appeal remedy. It is also apposite to mention that the petitioner should not suffer for the mistake committed by the counsel's office. As such, the Commissioner ought to have placed reliance on the submission made by the learned counsel for the petitioner and ought to have allowed I.A.Nos.1879 of 2023 and 1880 of 2023, but the State Commissioner erred in dismissing I.A.Nos.1879 of 2023 and 1880 of 2023.

8. It is relevant to refer to the categorical observations of the Hon'ble Apex Court in its judgment in ***COLLECTOR,***

LAND ACQUISITION, ANANTNAG AND ANOTHER Vs. Mst.KATIJI AND OTHERS[1], wherein the principles of condoning delay have been dealt with, and it was held as follows :-

> *3. The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the courts to do substantial justice to parties by disposing of matters on "merits". The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice — that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:*
>
> *"1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
>
> *2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
>
> *3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's*

[1] (1987) 2 SCC 107

delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk."

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

Making a justice-oriented approach from this perspective, there was sufficient cause for condoning the delay in the institution of the appeal.....".

(emphasis supplied)

9. The aforesaid judgment of the Hon'ble Apex Court has clearly held that Courts cannot adopt an inflexible approach while dealing with applications to condone delay, more so when the delay has been explained with a reasonable cause and justification. Therefore, in view of the above submissions made by the learned counsel for the petitioner and in view of the aforesaid judgment of the

Hon'ble Apex Court, this Court deems it appropriate to condone the delay in re-presenting the appeal, subject to the imposition of costs.

10. Accordingly, the writ petition is allowed by setting aside the order dated 08.04.2024 passed in F.A.I.A.Nos.1879 of 2023 and 1880 of 2023 in F.A.(Sr.).No.740 of 2023, subject to the petitioner paying costs of Rs.2,000/- (Rupees two thousand only) before the Consumer Legal Aid A/c. TSCDRC, Hyderabad, within a period of two weeks from the date of receipt of a copy of this order.

As a sequel, miscellaneous petitions, if any are pending, shall stand closed.

SUJOY PAUL, J

NAMAVARAPU RAJESHWAR RAO, J

05.09.2024
Prv