IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13488 OF 2017

Suresh Hareshwar Naik & Others .... Petitioners
Vs.
The State of Maharashtra & Others .... Respondents

Mr. Vedchetan Patil i/by Mr. Moses Rodrigues
for the Petitioners.
Mr. B.V. Samant, AGP, for the Respondents.

AND
WRIT PETITION NO.13353 OF 2016

Robert Marsalin Dias & Others .... Petitioners
Vs.
The State of Maharashtra & Others .... Respondents

Mr. Mihir Desai, Senior Counsel with Mr. Vedchetan
Patil i/by Mr. Moses Rodrigues for the Petitioners.
Mr. B.V. Samant, AGP, for Respondent Nos.1 to 7.
Mr. C.N. Chavan with Ms Mrunalini Panchal i/by
Ms Shital R. Ekawade for Respondent No.8.

WITH

WRIT PETITION NO.2759 OF 2011

Jagannath Kusaji Sawant .... Petitioner
Vs.
State of Maharashtra & Others .... Respondents

Mr. Uday P. Warunjikar for the Petitioner.
Mr. B.V. Samant, AGP, for Respondent Nos.1 & 2.
Mr. R.S. Datar for Respondent No.3.

CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.

DATE : MARCH 08, 2018

P.C:

1. We have extensively heard all the Advocates on the point of continuation of the interim order passed in Writ Petition No.2759 of 2011 and make it applicable to all matters.

2. Writ Petition No.13353 of 2016, from District Palghar, is stated to be filed by residents of Village Ambode, Taluka Vasai, District Palghar, and also residents of Village Bhinar and Village Vadghar of the same Taluka and District. These petitioners and 51 in number have impleaded as respondent Nos.1 to 7 the State Government and all the functionaries under the Maharashtra Land Revenue Code, 1966.

3. The Collector, Thane was impleaded only after the District Collectorate of Palghar was established and formed after District Palghar was carved out from a huge area governed by the State and falling in Thane District.

4. The 8th respondent to this petition is a Devasthan, styled as Shri Vajreshwari Yoginidevi Sansthan, Vajreshwari Village, Bhiwandi, District Thane.

5. The complaint of the villagers/residents is that this Court should quash and set aside a Circular dated 30-7-2010 and consequential orders dated 29-2-2016 and 6-5-2016.

6. When such a petition was brought and a challenge was raised, we inquired from the counsel appearing for the petitioners as to which part of the Circular is affecting or prejudicing the case of the villagers. Our attention was invited to that part of the Circular which, according to these petitioners, virtually directs that while taking a review of the cases and particularly finding out the present status of the lands, their ownership, transfers and the revenue entries in relation to them, the authorities should bear in mind that these are all class two occupants/occupancies. In exceptional cases and for *bona fide* causes and reasons and with prior approvals and sanctions alone, such lands can be transferred. Wherever it is brought to

the notice of the authorities that transfers of such lands have been effected, then, while scrutinising the legality and validity of such transfers and orders in relation thereto, they should proceed and equally prosecute those who are responsible for such acts, but in accordance with law. The Competent Courts before whom either proceedings or appeals are filed belatedly should adopt a liberal approach and condone the delay.

7. Mr. Mihir Desai, learned Senior Counsel and Mr. Warunjikar would submit that this is not an advise but a command. By this, the delay has to be necessarily condoned. Once that is condoned, then the discretionary power vesting in the authority to either refuse the condonation or grant it, is taken away. This is taken to be a direct interference in the discretionary exercise expected to be carried out by a Competent Officer or an authority in-charge of and deciding or adjudicating disputes as a quasi-judicial body. In other words, a quasi-judicial authority or any Court or Tribunal exercising judicial powers cannot be commanded to condone the delay. In the event there is a power conferred and which is coupled with a duty, then,

that power must be exercised judiciously and the exercise cannot be controlled by any agency, much less the State Government.

8. We have given our anxious consideration to this argument of the learned counsel appearing for the petitioners and we inquired from the learned AGP as to why these sentences or this paragraph finds place in this Circular dated 30-7-2010.

9. Mr. Samant pointed out that there is a salutary purpose sought to be achieved by issuance of this Circular. It is brought to the notice of the State Government that all over the State there are Temples, Devasthans and religious bodies. They claim to own huge tracts of land but not exclusively occupied by the Devasthan or the Mandir or the Temple or a religious Trust . The lands are situate adjoining or far away from it. The Devasthan may be located and situated at a distance or at a remote corner but the lands belonging to it are spread over and across the villages in the Talukas and Raigad District. In the circumstances, if the Devasthan perpetuates an act which is a patent illegality or a gross irregularity, to such an extent that

they cannot be regularised, then, some regulatory mechanism had to be created and some inquiries were thought fit to be instituted. The measures had to be initiated after complaints were made in relation to a Devasthan which is well-known in Maharashtra styled as Tulja Bhavani Devasthan, Taluka and District Osmanabad.

10. Mr. Samant laid special emphasis on the constitutional provision that there is a guarantee to an individual that his religious freedom will not be interfered with. An individual's right to profess his/her religion is undisturbed and uninterfered with. However, wherever religious bodies, organisations and establishments are functioning and working under a statutory scheme but they do not manage the affairs consistent with the object and purpose of the statute, then, the secular acts can very well be controlled by the State and regulated as well. While doing this, the State is not interfering with the individual's, or citizen's freedom to religion. All that the State ensures is that by the regulatory mechanism set up within the framework of a statute the lapses or errors in the

administration and management of the religious place, particularly styled as a Temple, Math, Mosque/Masjid or a Church, etc. are corrected or cured. Thus, cutting across all religions as the State has no religion, it is expected to take a review of those cases, as are mentioned in the complaints. Thus, alerted by the alleged irregularities and illegalities in relation to allotment of Devasthan lands and belonging to the Tulja Bhavani Temple, the State has issued this Circular which, firstly, directs that the District Collector and his subordinates should collect data about all the Devasthan's Inam Lands. This data has to be collected after which the process of ascertaining the ownerships, titles, rights claimed in the land and verification and scrutiny of the documents in relation thereto should be undertaken. After an inquiry is initiated so as to scrutinise and verify the correctness of the areas or entries, the further steps in terms of the Circular have to be taken.

11. This Circular, at best, administers a caution, according to Mr. Samant but does not attempt to control the discretion and the power of the authority.

12. Pertinently, Mr. Samant says that the petitioners do not challenge other paragraphs of the Circular by which the lands can be physically inspected or a review of the allotments/transfer can be taken or prior thereto the aforesaid information is gathered and generated. They also do not question the power of the authority to reopen the allotments or transfers in the manner contemplated by the Circular. They are only aggrieved by the fact that if these allotments or transfers are made decades back, they cannot be now questioned much less disturbed. Thus, even a Statutory Authority wielding statutory power is answerable and must explain as to why the enormous and unexplained delay is condoned by relying on this Circular. The only apprehension, according to the learned AGP, is that by relying on this Circular and particularly paragraph 2 of the same, the delay will necessarily be condoned and across the State.

13. Mr. Chavan, appearing for the Vajreshwari Devasthan Trust, seeks time.

14. We do not think that affidavits though called for are required and on a legal proposition to be considered and decided.

15. In several decisions of the Hon'ble Supreme Court right from the case of **The State of Uttar Pradesh Vs. Mohammad Naim**, reported in AIR 1964 SC 703 and earlier or later, the principle enshrined is that not even the highest authority/Court or Tribunal can control and interfere with a discretion vesting in a subordinate authority who exercises quasi-judicial and judicial powers. In **Mohammad Naim** (supra) the Hon'ble Supreme Court in para 10, at page 707, held that there is one principle of cardinal importance in the administration of Justice. That is that the proper freedom and independence of Judges and Magistrates must be maintained and they must be allowed to perform their functions freely and fearlessly and without undue interference by anybody, even by the Supreme Court. They cannot be commanded to act in a particular way. No such command is binding on them.

16. What applies to Judges and Magistrates, equally applies to other statutory functionaries and Public Officials. Even their discretionary power has to be exercised by them by ignoring the interventions and directions of their superiors.

17. If any authoritative pronouncement is necessary, then, the observations of the Hon'ble Supreme Court in the case of **Narendra Madivalapa Kheni Vs. Manikrao Patil and Ors.,** reported in **AIR 1977 SC 2171** are enough. In para 29, this is what the Hon'ble Supreme Court held:-

> *"29. …. There is a finding by the High Court that an influential candidate had interfered with officials to adulterate an electoral roll. We have vacated the finding but must warn that the civil services have a high commitment to the rule of law, regardless of covert commands and indirect importunities of bosses inside and outside government. Lord Chesham said in the House of Lords in 1958: "He is answerable to law alone and not to any public authority." A suppliant, obsequious, satellite public service – or one that responds to allurements, promotional or pecuniary – is a danger to a democratic polity and to the supremacy of the rule of law. The courage and probity of the hierarchical election machinery and its engineers, even when handsome temptation entices or huffy higher power brow-beats, is the guarantee of electoral purity. To conclude, we are unhappy that such aspersions against public servants affect the integrity and morale of the services but where the easy virtue of an election official or political power-*

> *wielder has distorted the assembly-line operations, he will suffer one day. ….”*

18. In a more direct and forthright pronouncement, the Hon'ble Supreme Court held [*Pancham Chand and Ors. vs. State of Himachal Pradesh and Ors.*, reported in **(2008) 7 SCC 117**] that even highest political functionary, namely, the Chief Minister has no power to direct a statutory authority not to act in terms of the statutory provisions, but in ignorance thereof. In paras 17, 18, 19 and 20, the Hon'ble Supreme Court held as under:-

> *“17. Section 67 of the Act empowers the State Government to control road transport having regard to the factors enumerated therein. Section 68 provides for constitution of the State Transport Authority. An application for grant of stage carriage permit, as envisaged under Section 69 of the Act, is to be filed in terms of Section 70 thereof, detailing the particulars specified therein. Section 71 provides for the procedures to be followed by the Regional Transport Authority in considering application for stage carriage permit. Section 72 empowers the Regional Transport Authority to grant stage carriage permit in respect of any route or the area specified in the application. The other provisions contained in the said Chapter provide for the mode and manner for dealing with the applications for grant of other types of permits.*
>
> *18. The Act is a self contained Code. All the authorities mentioned therein are statutory authorities. They are*

bound by the provisions of the Act. They must act within the four corners thereof. The State, although, has a general control but such control must be exercised strictly in terms of Article 162 of the Constitution of India. Having regard to the nature and the manner of the control specified therein, it may lay down a policy. Statutory authorities are bound to act in terms thereof, but per se the same does not authorize any Minister including the Chief Minister to Act in derogation of the statutory provisions. The Constitution of India does not envisage functioning of the Government through the Chief Minister alone. It speaks of a Council of Ministers. The duties or functions of the Council of Ministers are ordinarily governed by the provisions contained in the Rules of Business framed under Article 166 of the Constitution of India. All governmental orders must comply with the requirements of a statute as also the constitutional provisions. Our Constitution envisages a rule of law and not rule of men. It recognizes that, how so ever high one may be, he is under law and the Constitution. All the constitutional functionaries must, therefore, function within the constitutional limits.

19. Apart from the fact that nothing has been placed on record to show that the Chief Minister in his capacity even as a Member of the Cabinet was authorized to deal with the matter of transport in his official capacity, he had even otherwise absolutely no business to interfere with the functioning of the Regional Transport Authority. The Regional Transport Authority being a statutory body is bound to act strictly in terms of the provisions thereof. It cannot act in derogation of the powers conferred upon it. While acting as a statutory authority it must act having regard to the procedures laid down in the Act. It cannot bypass or ignore the same.

20. Factual matrix, as indicated hereinbefore, clearly goes to show that the fourth respondent filed the application before the Chief Minister straightaway. Office of the Chief Minister communicated the order of the Chief

> *Minister, not once but twice. Respondent 2 acted thereupon. It advised the Regional Transport Authority to proceed, after obtaining a proper application from respondent 4 in that behalf. This itself goes to show that prior thereto no proper application was filed before the Regional Transport Authority. Such an interference on the part of any authority upon whom the Act does not confer any jurisdiction, is wholly unwarranted in law. It violates the constitutional scheme. It interferes with the independent functioning of a quasi-judicial authority. A permit, if granted, confers a valuable right. An applicant must earn the same."*

19. In several judgments of the Hon'ble Supreme Court, it has been held that mere mistake or wrong interpretation of law may not be the basis for initiating disciplinary proceedings against those officers in whom quasi judicial powers are vested. If every error of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi judicial officers. The entire system of administrative, adjudication, whereunder quasi judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings. It is only in case of a deliberate act and actuated by mala fides that the disciplinary proceedings can

be initiated and not otherwise. The Hon'ble Supreme Court has summarised this principle of law in the case of **Union of India and Ors. Vs. Duli Chand,** reported in (2006) 5 SCC 680 (see paragraphs 5, 8 and 9). In that decision, the Hon'ble Supreme Court disapproved the reasoning enunciated in the case of **Zunjarrao Bhikaji Nagarkar Vs. Union of India**, reported in 1999 (7) SCC 409.

20. We are, therefore, of the firm opinion that the independent functionaries exercising quasi judicial powers, whether in terms of the circular or otherwise and particularly in terms of the Maharashtra Land Revenue Code, 1966 or allied laws, cannot be directed to condone the delay in all cases irrespective of the peculiar facts involved in each individual case. Thus, the delay will have to be condoned on case to case basis and there is no apprehension that unmindful of the facts, the peculiarities and only going by the circular, the delay will be condoned. There is a strong indictment by the Hon'ble Supreme Court and even the highest executive, statutory and political functionaries have been warned not to subvert the rule of law. If

any further judgment is required, one can easily refer to the later judgment on the point in the case of **State of Maharashtra and Ors. Vs. Sarangdharsingh Shivdassingh Chavan and Anr.,** reported in (2011) 1 SCC 577. Following the law laid down in the case of *Pancham Chand* (supra), the Hon'ble Supreme Court reemphasised the above salutary principles in paras 55, 57, 58, 59, 60, 63 and 64 by concluding that it is the duty of public functionaries to enforce the law of the land. No interference in exercise of their power will, therefore, be tolerated even if that is by a Chief Minister of the State.

21. All authorities must decide the issue or *lis* before them in accordance with law and uninfluenced by any such interventions, directions or attempts to control the exercise of their power. We do not, therefore, think that unless individual cases of abuse and misuse of discretionary power are brought before this Court or the Circular being applied to all cases irrespective of their peculiar facts and circumstances, that it is bound to be misused. In all matters depending upon the

peculiar facts and circumstances, the discretion would be exercised to condone the delay. All that the Circular says and cautions is that it should be exercised by applying liberal principles. It is only in that regard the attention of the authorities is invited to the Judgment of the Hon'ble Supreme Court in the case of **Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others**, reported in AIR 1987 SC 1353. The argument of the petitioners overlooks the fact that this Judgment is not necessarily followed nor its principle applied to every application seeking condonation of a prolonged unexplained delay amounting to laches. In a later Judgment in **Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr.**, reported in AIR 2012 SC 1506 the Hon'ble Supreme Court referred to the above Judgment and explained the principle as under:-

> *"7. Before going into the reasons furnished by the Department for the delay, let us consider various decisions of this Court relied on by Mr. Raval, learned ASG.*
>
> *i) In Collector, Land Acquisition, Anantnag and another v. Mst. Katiji and others, (1987) 2 SCC 107 : (AIR 1987 SC 1353), while considering "sufficient cause"*

in the light of Section 5 of the Limitation Act, 1963, this Court pointed out various principles for adopting liberal approach in condoning the delay in matters instituted in this Court. Learned ASG heavily relied on the following principles:-

"*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 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."

By showing the above principles, learned ASG submitted

that there is no warrant for according step-motherly treatment when the "State" is the applicant. It is relevant to mention that in this case, the delay was only for four days.

ii) In G. Ramegowda, Major and others v. Special Land Acquisition Officer, Bangalore, (1988) 2 SCC 142 : (AIR 1988 SC 897), the principles enunciated in paras 15 & 17 are heavily relied on by the learned ASG. They are:

"*15. In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.*

17. Therefore, in assessing what, in a particular case, constitutes "sufficient cause" for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making."

Considering the peculiar facts, namely, the change of government pleader who had taken away the certified copy after he ceases to be in office, the High Court condoned the delay which was affirmed by this Court.

iii) In State of Haryana v. Chandra Mani and others, (1996) 3 SCC 132 : (AIR 1996 SC 1623) : 1996 AIR SCW 1672), while condoning the delay of 109 days in filing the LPA before the High Court, this Court has observed that certain amount of latitude within reasonable limits is permissible having regard to

impersonal bureaucratic setup involving red-tapism. In the same decision, this Court directed the State to constitute legal cells to examine whether any legal principles are involved for decision by the courts or whether cases required adjustment at governmental level.

iv) In State of U.P. and others v. Harish Chandra and others, (1996) 9 SCC 309 : (AIR 1996 SC 2173 : 1996 AIR SCW 2785), by giving similar reasons, as mentioned in Chandra Mani's case (supra) this Court, condoned the delay of 480 days in filing the SLP.

v) In National Insurance Co. Ltd. v. Giga Ram and others, (2002) 10 SCC 176, this Court, after finding that the High Court was not justified in taking too technical a view of the facts and refusing to condone the delay, accepted the case of the appellant-Insurance Company by protecting the interest of the claimant and condoned the delay. It is relevant to point out that while accepting the stand of the Insurance Company for the delay, this Court has safeguarded the interest of the claimant also.

vi) In State of Nagaland v. Lipok Ao and others, (2005) 3 SCC 752 : (AIR 2005 SC 2191 : 2005 AIR SCW 1748), this Court, while reiterating the principle that latitude be given to government's litigation, allowed the appeal filed by the State of Nagaland. It is also relevant to note here that this matter relates to criminal jurisdiction and delay in filing the SLP was only 57 days.

8. Though the learned ASG heavily relied on the above said decisions and the principles laid down, on going through all the factual details, we are of the view that there is no quarrel about the propositions inferred therein. However, considering the peculiar facts and circumstances of each case, this Court either condoned the delay or upheld the order of the High Court condoning the delay in filing appeal by the State. ….”

"10. Before considering whether the reasons for justifying such a huge delay are acceptable or not, it is also useful to refer the decisions relied on by Mr. Soli J. Sorabjee, learned senior counsel for the respondents.

i) In Commissioner of Wealth Tax, Bombay v. Amateur Riders Club, Bombay, 1994 Supp (2) SCC 603, there is a delay of 264 days in filing the SLP by the Commissioner of Wealth Tax, Bombay. The explanation for the delay had been set out in petitioner's own words as under:

> *".....2 (g) The Advocate-on-Record got the special leave petition drafted from the drafting Advocate and sent the same for approval to the Board on June 24, 1993 along with the case file.*
>
> *(h) The Board returned the case file to the Advocate-on-Record on July 9, 1993 who re-sent the same to the Board on September 20, 1993 requesting that draft SLP was not approved by the Board. The Board after approving the draft SLP sent this file to CAS on October 1, 1993."*

After incorporating the above explanation, this Court refused to condone the delay by observing thus:

> *"3. ... ... Having regard to the law of limitation which binds everybody, we cannot find any way of granting relief. It is true that Government should not be treated as any other private litigant as, indeed, in the case of the former the decisions to present and prosecute appeals are not individual but are institutional decisions necessarily bogged down by the proverbial red-tape. But there are limits to this also. Even with all this latitude, the explanation offered for the delay in this case merely serves to aggravate the attitude of indifference of the Revenue in protecting its common interests. The affidavit is again one of the*

stereotyped affidavits making it susceptible to the criticism that the Revenue does not seem to attach any importance to the need for promptitude even where it affects its own interest.

(Emphasis supplied)

ii) In Pundlik Jalam Patil (dead) by LRS. v. Executive Engineer, Jalgaon Medium Project and another, (2008) 17 SCC 448 : (AIR 2008 SC (Supp) 1025), the question was whether the respondent-Executive Engineer, Jalgaon Medium Project had shown sufficient cause to condone the delay of 1724 days in filing appeals before the High Court. In para 17, this Court held:

".... The evidence on record suggests neglect of its own right for long time in preferring appeals. The court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The court helps those who are vigilant and "do not slumber over their rights".

After referring various earlier decisions, taking very lenient view in condoning the delay, particularly, on the part of the Government and Government Undertaking, this Court observed as under:-

"29. It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy.

30. Public interest undoubtedly is a paramount consideration in exercising the courts' discretion wherever conferred upon it by

the relevant statutes. Pursuing stale claims and multiplicity of proceedings in no manner subserves public interest. Prompt and timely payment of compensation to the landlosers facilitating their rehabilitation/resettlement is equally an integral part of public policy. Public interest demands that the State or the beneficiary of acquisition, as the case may be, should not be allowed to indulge in any act to unsettle the settled legal rights accrued in law by resorting to avoidable litigation unless the claimants are guilty of deriving benefit to which they are otherwise not entitled, in any fraudulent manner. One should not forget the basic fact that what is acquired is not the land but the livelihood of the landlosers. These public interest parameters ought to be kept in mind by the courts while exercising the discretion dealing with the application filed under Section 5 of the Limitation Act. Dragging the landlosers to courts of law years after the termination of legal proceedings would not serve any public interest. Settled rights cannot be lightly interfered with by condoning inordinate delay without there being any proper explanation of such delay on the ground of involvement of public revenue. It serves no public interest."

12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation

> *of delay when there was no gross negligence or deliberate inaction or lack of bona fide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.*
>
> *13. In our view, it is the right time to inform all the Government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay."*

22. We referred to these Judgments for they set out a very important facet of such matters.

23. The Hon'ble Supreme Court though time and again reiterating these liberal principles, cautioned all concerned that there can be a vested interest in all delays. There can be an intentional and deliberate act attributable to those who are in-charge of acquisition of lands, payment of compensation and thereafter questioning the orders and proceedings themselves. Their acts may contravene the interest of the public. In other words, compensation was paid in land acquisition matters unmindful of relevant and germane factors. Huge amounts from public funds were disbursed in the name of compensation for acquisition of land and particularly to compensate for the loss of the land, sometime cultivable but on most occasions barren and uncultivable. Amounts in lakhs and crores of rupees were disbursed. The relevant principles were ignored and when such compensation was paid or offered, thereafter the orders were not challenged or challenged belatedly. There can, therefore, be a intentional and deliberate act attributable to the public officials and that aspect should not be ignored while condoning the delay. That is why the liberal principles and to subserve

larger public interest. If these Judgments do not hold that in all cases irrespective of the *bona fides* of the cause shown, the delay must necessarily be condoned but say that there is a discretion while deciding the application for condonation of delay and liberal principles should be applied in the event some of the above facets are noticed, then, the Circular cannot be construed accordingly and as apprehended by the petitioners. We do not find any basis for their apprehension. All the more, when we have issued the above clarification.

24. We would now expect an affidavit from the State enlightening this Court as to how much property is owned by this Devasthan, across how many villages and how many cases of the nature referred in the Circular are going to be taken up and whether in addition to this Devasthan, the inquiry in terms of the Circular has commenced or is undertaken in cases of other religious Trusts' properties. Whether the Collector has by now completed collection of the information contemplated by para 1 of the Circular? Whether the Collector has started the process and of verification and scrutiny in terms of para 2 thereof, and

whether where such steps are undertaken or while taking such steps, there was a physical inspection of these lands? In how many cases the review as contemplated by the Circular is undertaken and whether any final report with regard to implementation of the Circular has been placed before the higher or superior authorities?

25. We grant time for such an exercise and filing of affidavit and therefore we place these matters, at the request of the learned AGP, on **13-4-2018**. They shall be listed on the supplementary board.

26. In the light of the above order, all prior interim orders either stand vacated or modified accordingly.

(PRAKASH D. NAIK, J.) (S.C. DHARMADHIKARI, J.)