

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

**INTERIM APPLICATION (L) NO. 9319 OF 2023
IN
WRIT PETITION (L) NO. 561 OF 2019**

Smita Brijpalsingh Rajput
IN THE MATTER OF

.. Applicant

Smita Brijpalsingh Rajput
Versus

.. Petitioner

Ld. Additional Collector – Appellate Authority
and Ors.

.. Respondents

-
- Mr. Chandrashekhar Yadav, Advocate for Applicant / Petitioner.
-

CORAM : MILIND N. JADHAV, J.

DATE : DECEMBER 13, 2023.

P.C.:

- 1.** Not on Board. Mentioned. Taken on Board.
- 2.** Heard Mr. Yadav, learned Advocate for Applicant / Petitioner.
- 3.** This Interim Application seeks restoration of Writ Petition (L) No.561 of 2019 filed by the Petitioner which came to be dismissed by a conditional order dated 27.02.2023 failing to make out the case for consideration to the satisfaction of the learned Prothonotary and Senior Master of this Court by the Petitioner for delay caused in removal of office objections. I have perused the order dated 27.02.2023.

4. Mr. Pande has also drawn my attention to the order dated 16.06.2022 which is Exhibit “D” as also the order dated 27.08.2019 which is at Exhibit “B” and would submit that on both occasions the Petitioner and/or his Advocate were directed to remove the office objections and get the Petition numbered / registered and due to the conditional order, the Petition was dismissed for non compliance of office objections. He would submit that thereafter the Chamber Summons was filed being Chamber Summons (L) No.264 of 2022 for setting aside of the order dated 27.08.2019. He would submit that in the said Chamber Summons a specific plea was taken by the Petitioner to the effect that she is senior citizen suffering from various medical ailments and was completely cut off with respect to communication with the Advocate which she had engaged and negligence of the Advocate has been pleaded.

5. Though elaborate reasons are stated by the Prothonotary and Senior Master of this Court, in order to do justice, litigant cannot suffer due to the act of the Advocate. I am therefore inclined to allow the Interim Application on the basis of the grounds stated therein.

6. Considering the fact that the Petitioner is a senior citizen and suffering from medical ailments of which adequate material has also been placed on record by the Petitioner in the Interim Application, the Interim Application stands allowed in terms of prayer clause ‘a’.

- 7.** In view of the above, the order dated 27.08.2019 in so far as the present Writ Petition namely Writ Petition (L) No.561 of 2019 is concerned stands set aside only to the extent of the present Petition. Writ Petition (L) No.561 of 2019 is restored to file.
- 8.** In view of the above order, four (4) weeks time to remove the office objections is granted to the Applicant / Petitioner which Mr. Yadav undertakes to remove the office objections.
- 9.** Interim Application disposed.
- 10.** List the Writ Petition on Board on **12th January, 2024.**

[MILIND N. JADHAV, J.]

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