

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11649 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the concerned : NO  
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

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VALLABHBHAI M BAMANIYA

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 11649 of 2004  
M/S THAKKAR ASSOC. for Petitioner No. 1  
Mr. MR Mengde, AGP for Respondent No. 1-3

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CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 30/11/2004

ORAL JUDGEMENT

Rule. Shri MR Mengde, learned AGP waives service of Rule on behalf of the respondents. With the consent of the parties, the matter is taken up for Final Hearing today.

2. In this petition under Article 226/227 of the

Constitution of India, the petitioner has challenged the legality and validity of the order passed by the respondent No.1 dated 7/8.10.2002 in dismissing the revision application on the ground of delay.

3. Shri Navin Pahwa, learned advocate appearing for the petitioner has submitted that the order was passed by the Collector, Dahod, dated 20.11.2001 and the revision application came to be filed before the respondent No.1 on 23rd September 2002. He has further submitted that the petitioner has given reasons in that application dated 23rd September 2002 for not approaching the revisional authority within the stipulated time. He has also further submitted the petitioner belongs to scheduled tribe community and that he is from the backward area of Panchmahals District. He has also further submitted that so far as the merits of the case are concerned there are all chances of success in the revision application and under the circumstances he has requested to quash and set aside the order passed by the revisional authority in not entertaining the revision application on the ground of delay.

4. Shri MR Mengde, learned AGP appearing on behalf of the respondent No.1 has submitted that even there is a delay of 2 years in preferring the present Special Civil Application which is not permissible. He has further submitted that considering the application dated 23rd September 2002 and the reasons given thereon the revisional authority has not entertained the revision application on the ground of delay.

5. Heard the learned advocates appearing on behalf of the parties. The order came to be passed by the Collector, Dahod on 21.11.2001 and the revision application came to be filed in the month of September 2002. The petitioner belongs to scheduled tribe community and is coming from the backward area of Panchmahals District and that considering the judgment of the Hon'ble Supreme Court of India, normally such applications are required to be decided on merits rather than dismissing the same on technical grounds namely for delay etc. Considering the aforesaid facts and circumstances and also considering the reasons stated in the application dated 23rd September 2002, the impugned order dated 7/8.10.2002, passed by the respondent No.1 in dismissing the revision application on the ground of delay, is hereby quashed and set aside, on condition that the petitioner shall pay an amount of Rs. 2,500 by way of costs to the respondent No.1, and on deposit of the said amount, as stated hereinabove, the respondent No.1

is directed to decide and dispose of the revision application in accordance with law and on merits. Rule is made absolute to the aforesaid extent with no order as to costs.

[ M.R. Shah, J. ]

rmr.