

GAHC030004872023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/106/2023

The State of Mizoram and 3 Ors.
R/b Chief Secretary to the Govt. of Mizoram
Aizawl

2: Secretary to the Govt. of Mizoram

3: Special Land Acquisition Officer
PIU

4: Project Director
PI

VERSUS

Sh. C. Lalbiakthanga
S/o Chawngtluanga (L)
R/o Zuangtui, Aizawl

Advocate for the Petitioner : Addl. AG/GA, Mizoram
Advocate for the Respondent : Mr. L.H. Lianhrima, Sr.Adv.

Linked Case : LA.App./1/2023

The State of Mizoram and 3 Ors.
R/b Chief Secretary to the Govt. of Mizoram
Aizawl

2: Secretary to the Govt. of Mizoram
Public Works Department (PWD)
Aizawl

3: Special Land Acquisition Officer
PIU
Chief Engineer (Highways) Office
PWD
Mizoram
Aizawl

4: Project Director
PIU
Office of the Chief Engineer (Highways)
PWD
Tuikhuahtlang
Aizawl
VERSUS

Sh. C. Lalbiakthanga
S/o Chawngtluanga (L)
R/o Zuangtui
Aizawl

Advocate for the Petitioner : Addl. AG/GA
Mizoram
Advocate for the Respondent : Mr. L.H. Lianhrima
Sr.Adv.

**BEFORE
HONOURABLE MRS. JUSTICE MARLI VANKUNG
ORDER**

Date : 01-11-2023

Heard Mr. P.C. Lalthangmawia, learned Government Advocate for the applicant/appellant along with Mr. L.H. Lianhrima, learned Senior counsel for the respondents.

2. This is an application filed under Section 5 of the Limitation Act for the condonation of delay of 574 days in filing the appeal for setting aside the impugned Order dated 23.11.2021 passed by the District & Sessions Judge, Lunglei District in connection with LA Case No. 1/2007.

3. The learned Government Advocate submits that there was a delay of 574 days in filing the instant appeal for the reasons that the applicant/appellant had received the impugned order on 08.12.2021. Thereafter, a letter for application of appeal was sent to the Joint Secretary, Public Works Department, Government of Mizoram by the Chief Engineer (Planning) for Engineer-in-Chief, PWD vide letter dated 18.02.2022. A letter for filing an appeal was then sent by the Under Secretary (T) PWD, Government of Mizoram to the Additional Advocate General, Aizawl vide letter dated 22.02.2022. He submits that the reason for delay was due to the late sending of the impugned order and its connected papers, and also the letter of filing appeal to the Additional Advocate General. The learned Additional Advocate General also took some time in drafting the connected appeal which has now been filed. He thus submits that the delay was mainly due to Government documents transaction and information which required to be routed through proper channel and therefore, inadvertently there was delay which was of no fault on the part of the appellant, but was due to circumstances beyond their control. For the aforesaid reasons, the applicant/appellant could file the appeal only in the third week of September, 2023.

4. The learned Government Advocate further submits that the Limitation Act has not been enacted with the object of destroying the rights of the parties but to ensure that they approach the Court for vindication of their rights without unreasonable delay. He thus submits that the application for condonation of delay of 574 days may be allowed in the interest of justice.

5. Mr. L.H. Lianhrima, learned Senior counsel for the respondents, on the

other hand has objected to the condonation of delay submitting that there is no sufficient cause for condoning the inordinate delay of 574 days in filing the connected appeal has been made out by the applicants. The learned counsel submits that the impugned order passed by the learned District Judge in LA Case No. 1/2007 on 23.11.2021 was duly furnished to the parties on the date of the order itself, wherein the parties were properly represented by their respective counsels. The applicants then received a certified copy of the impugned Order on 29.11.2021 and therefore, the applicants had plenty of time to draft the appeal petition and file the same within the permission period of time.

6. The learned counsel submits that from the explanation given by the learned counsel for the applicant/appellant, it is obvious that the appeal petition was not filed in time due to sheer negligence on the part of the applicant/appellant. The learned counsel has relied on the judgment and order of the Apex Court in the case of *Basawaraj & Anr. Vs. Special Land Acquisition Officer*, reported in (2013) 14 SCC 81, wherein the Apex Court held that sufficient cause means that the parties should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has not acted diligently or remain inactive. He has also cited the case of *Union of India & Ors. Vs. Tata Yodogawa Limited & Anr.*, reported in (2015) 9 SCC 102 (para 4 & 5) and *Postmaster General & Ors. Vs. Living Media India Limited & Anr.*, reported in (2012) 3 SCC 563 (para 27 & 29).

7. The learned counsel submits that in view of the cited cases in the instant

case, there are no grounds for condonation of the delay, which is not for any bona fide reason.

8. Having heard the submissions made by the learned counsels for both the parties, this Court finds that the applicant/appellant has failed to explain the reason as to why no immediate steps were taken, once a certified true copy of the impugned Order dated 23.11.2021 was received by them on 08.12.2021. It is seen that there has been no explanation as to why a letter for application of appeal was sent to the Joint Secretary, PWD, Government of Mizoram only on 18.02.2022. The Apex Court in *Union of India & Ors. (Supra)* has held that "5. *It is further stated in the rejoinder-affidavit to the counter-affidavit on behalf of the respondents that "such delay is always beyond the control of especially in government matters as the file has to be routed through several sections of the Department". We are aware of the fact that the Government being impersonal takes longer time than the private bodies or the individuals. Even giving that latitude, there must be some way or attempt to explain the cause for such delay. 6. As stated from the facts narrated hereinbefore there is no sufficient cause to explain the delay. Hence, the application for condonation of delay is dismissed.*" The Apex Court also in *Postmaster General & Ors. (Supra)* has held that "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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

9. In view of the above, this Court finding that no sufficient cause has been

made out and no proper explanation has been rendered by the learned Government Advocate for the delay, this Court finds no sufficient reason to condone the delay of 574 days in filing the appeal against the impugned Order dated 23.11.2021 passed by the learned District & Sessions Judge, Lunglei District in connection with LA Case No. 1/2007 and accordingly, I.A.(C) No. 106/2023 stands dismissed and disposed.

JUDGE

Comparing Assistant