

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

LPA No.21/2023
CM Nos.940/2023 & 941/2023

**Union Territory of Jammu and Kashmir and
others**

....Petitioner(s)/Appellant(s)

Through :- Mr. Ravinder Gupta, AAG.

Versus

....Respondent(s)

Thakur Naseeb Singh

Through :- Mr. G.S Thakur, Advocate.

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE**

ORDER
07.08.2023

Tashi Rabstan, J:

CM No.940/2023 (Condonation of delay application)

1. Instant application has been filed by the applicants-State seeking to condone the delay of 263 days in filing the accompanying appeal against the order dated 22.03.2022 passed by learned Single Judge in WP(C) No. 1080/2021 titled 'Thakur Naseeb Singh v. UT of J&K and others'.
2. Mr. Ravinder Gupta, learned AAG appearing for the applicants-State has vigorously argued that delay in filing the appeal on the part of the applicants is neither intentional nor willful.
3. It is contended that the impugned order is passed on 22.03.2022 and after receipt of the certified copy of the same, the applicant No.2 i.e., the Chief Engineer, PW(R&B) Department, Jammu, vide communication dated

07.06.2022, requested other contesting respondents to furnish report along with relevant record to proceed further. The applicant No.3 on 05.08.2022 has furnished the requisite report to applicant No.2 and thereafter, vide letter dated 10.11.2022, the applicant No.2 took up the matter with the applicant No.1 with the request to take up the issue for accord of sanction from the competent authority. Finally on 30.11.2022, the Law Department accorded sanction to file appeal. On 17.12.2022, the representative of the Executive Engineer R&B Construction Division-I Jammu handed over the copy of sanction letter dated 30.11.2022 to learned AAG. The appeal before this Court was filed on 11.02.2023. Hence this application for condoning the delay in filing the appeal.

4. Learned counsel for the applicants submits that the grounds in the appeal are strong on merits and the applicants are sure to succeed in the appeal, and in case the delay is not condoned, the appeal will not be heard on merits.

5. On the other hand, Mr. G.S Thakur, learned counsel for the respondent has shown strong reservations in case the delay is condoned. He submitted that delay caused in approaching the court is huge, unexplained and the reasons given for delay are nothing but charade. In support of his submissions, learned counsel has relied upon a judgment delivered by the Apex Court on 15.10.2020 in case '*State of Madhya Pradesh and others vs. Bherulal*' reported in (2020)10 SCC 654, wherein, Hon'ble the Supreme Court had taken very serious note of inordinate delay on the part of the Government and Government authorities.

6. We have heard learned counsel appearing for the parties and perused this application.

7. On perusal of the application seeking condonation, it would transpire that the applicants are not serious in filing the appeal on time as they have taken more than eight months for obtaining sanction from the Law Department, which shows that the applicants have acted in a very nonchalant manner. The cavalier attitude on the part of the applicants is writ large as they have not bothered themselves to even give specific dates as date for receiving the certified copy of the judgment is conspicuous by its absence. A bare perusal of the dates seems to be just joining of the dots to cover up the delay caused. There is no sufficient cause shown, let alone plausible and cogent explanation for seeking condonation of delay. It is also not a case where the judgment impugned has been passed *ex parte* and the applicants were oblivious of the same. The applicants were represented by Mr. Ravinder Gupta, learned AAG. No sufficient cause is forthcoming which would sway this Court to take a lenient view as the approach adopted by the applicants is nothing but perfunctory, which could justify the time which the applicants have taken in filing the appeal.

8. We are fortified in our view by the judgment passed by the Hon'ble Supreme Court in appeal bearing Civil Appeal No. 2474-2475 of 2012 (Arising out of SLP (C) Nos.7595-96 of 2011 dated 24.02.2012) titled *Office of the Chief Post Master General & Ors. V. Living Media India Ltd. and Another*, wherein for improper explanation for delay, the Court observed as under:-

“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.”

9. Hon'ble the Supreme Court while dismissing *SLP (Civil) Diary No(s).19846/2020* titled as *Union of India Vs. Central Tibetan Schools Admin & Ors.*, on 04.02.2021 on account of delay observed as under:-

“We have repeatedly been counselling through our orders various Government departments, State Governments and other public authorities that they must learn to file appeals in time and set their house in order so far as the legal department is concerned, more so as technology assists them. This appears to be falling on deaf ears despite costs having been imposed in number of matters with the direction to recover it from the officers responsible for the delay as we are of the view that these officers must be made accountable. It has not had any salutary effect and that the present matter should have been brought up, really takes the cake!

The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged State Governments and public authorities in adopting an approach that they can walk in to the Supreme Court as and when they please ignoring the period of limitation prescribed by the Statutes, as if the Limitation statute does not apply to them. In this behalf, suffice to refer to our judgment in the State of Madhya Pradesh & Ors. v. Bheru Lal [SLP [C] Diary No.9217/2020 decided on 15.10.2020] and The State of Odisha & Ors. v. Sunanda Mahakuda [SLP [C] Diary No. 22605/2020 decided on 11.01.2021].....”

10. Having regard to above referred judgments, it suggests that the applicants have perceived delay in a cavalier manner as a routine matter and its lackadaisical tendency is exhibited by its nonchalant manner in which the applicants have pursued the matter. Despite availability of huge manpower and machinery at its disposal, the appeal has been filed after a lapse of more than ten months. The reasons for such delay are not forthcoming from the application. Further, more than two months’ time was dissipated after having sanction from the competent authority. The delay caused by the State after obtaining sanction is also not explained at all.

11. In view of the facts and circumstances of the case, discussions made hereinabove and the settled law position, we do not find any merit in the application seeking condonation of delay of 263 days in filing the appeal and

accordingly, this condonation of delay application is **dismissed**.

12. As a result thereof, the accompanying appeal i.e. LPA No.21/2023 shall also stand dismissed.

(Rahul Bharti)
Judge

(Tashi Rabstan)
Judge

Jammu:
07.08.2023
Surinder

Whether the order is speaking?
Whether the order is reportable

Yes/No
Yes/No

