

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

LPA No.137/2022
CM No. 7215/2022
CM No. 7126/2022

UT of J&K and others

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

Through :- Mr. Amit Gupta, AAG vice
Mr. Vishal Bharti, Dy. AG.

V/s

Kafeel Ahmed

....Respondent(s)

Through :- Mr. Haroon Rashid Qureshi, Advocate.

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE**

ORDER
20.09.2023

TASHI RABSTAN,J

1. CM No.7125/2022 is an application filed by the State seeking condonation of delay of 951 days in filing the appeal.
2. In support of his submissions, Mr. Amit Gupta, learned AAG appearing vice Mr. Vishal Bharti, Dy. AG for the applicants submits that the judgment against which the appeal is sought to be filed is passed on 14.02.2020. The sanction to file the appeal was granted on 28.09.2022. The appeal is filed on 21.11.2022. Hence, the delay of 951 days is caused in filing the appeal.
3. Learned counsel for the applicants submits that the delay caused on the part of the State in filing the appeal is neither intentional nor willful.
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 be not heard on merits.
5. Heard learned counsel for the applicants and perused this application.

6. 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 not bothered themselves to even give the conspectus of events which entailed a delay of 951 days in filing the appeal. This would lead to only one inescapable conclusion that the applicants have pursued the case in a very nonchalant manner. There is also no plausible and cogent explanation for seeking condonation of delay. The only reason given for the delay is that the competent authority was considering the review of SRO 520. It is also not a case where the judgment impugned has been passed *exparte* and the applicants were oblivious of the same. The judgment is passed on 14.02.2020 and the applicants were represented by Mr. Sudesh Magotra, the then Dy. AG. No explanation has been tendered in the application which could justify the time which the applicants have taken in filing the appeal.

7. Hon'ble the Supreme Court while dismissing the 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* on account of no proper explanation for delay 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.”

8. 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 being 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].....”

9. 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. The reasons for such delay are not forthcoming from the application. Further, from perusal of delay condonation application would show that clear 53 days were squandered after having sanction from the competent authority. The delay caused by the State after obtaining sanction is also not explained at all.

10. 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 951 days in filing the appeal and accordingly, the delay condonation application (CM No.7215/2022) is dismissed.

11. As a result thereof, the accompanied appeal i.e. LPA No.137/2022 is also dismissed along with connected CM.

(Rajesh Sekhri)
Judge

(Tashi Rabstan)
Judge

Jammu:
20.09.2023
Raj Kumar