

Neutral Citation No. - 2023:AHC-LKO:70901-DB

Court No. - 1

Case :- SPECIAL APPEAL DEFECTIVE No. - 842 of 2023

Appellant :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Finance
U.P. Govt. U.P. Lko. And Others

Respondent :- Ram Shiromani Yadav

Counsel for Appellant :- C.S.C.

Counsel for Respondent :- Vyas Narayan Shukla

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Om Prakash Shukla,J.

- (1) Heard learned Standing Counsel for State-appellants and learned counsel for the sole respondent.
- (2) The instant Special Appeal filed under Chapter VIII Rule 5 of Allahabad High Court Rules, 1952 has challenged the impugned judgment and order dated 04.01.2022 passed by the Writ Court in Writ-A No.31474 of 2021. While filing the Special Appeal, the applicants/appellants have also filed an affidavit in support of an application for condonation of delay.
- (3) Office has reported that the instant Special Appeal is barred by 505 days.
- (4) In the affidavit filed in support of an application for condonation of delay, the applicants/appellants have stated that on receipt of the impugned judgment and order dated 04.01.2022, the District Development Officer, Sultanpur sought legal opinion from the Chief Standing Counsel vide his letter dated 13.04.2022 and in reply, the Chief Standing Counsel vide his letter dated 13.05.2022 has opined to file a Special Appeal against the impugned judgment and order. Thereafter, the opinion of the learned Chief Standing Counsel has been communicated to the Commissioner, Gram Vikas, Uttar Pradesh on 17.05.2022 and on 02.11.2022, the Additional Secretary, Government of India apprised the Commissioner to file Special

Appeal, who in turn, had directed the District Development Officer, Sultanpur for filing the Special Appeal on 16.11.2022. Subsequently, the Block Development Officer vide his letter dated 28.12.2023 sent instructions to the Office of learned Chief Standing Counsel. On 04.04.2023, the learned Chief Standing Counsel allotted the matter to the Standing Counsel for filing of Special Appeal and ultimately, the Special Appeal has been filed on 17.10.2023.

- (5) If the above events are viewed microscopically, it indicates that the impugned judgment and order has been passed on 04.01.2022, whereas the Special Appeal has been filed on 17.10.2023 which took more than **one year and nine** months. This shows the lackadaisical approach and callous attitude of the officers who are not vigilant and are in deep slumber while filing the Special Appeals.
- (6) Hon'ble Supreme Court, in a Special Leave Petition, recently reprimanded the State of Orissa for the lackadaisical attitude with which the petitioner-State has been prosecuting the cause in a matter. Relying on the judgment passed in *State of Odisha v. Surama Manjari Das (W.P.(C) No. 15763 of 2021* the Special Leave Petition filed against the judgment and order dated July 26, 2023, passed by the Orissa High Court, has been refused to entertain the same at 'the belated stage', as it suffered from delay and laches.
- (7) Law has long set its face against delay in approaching the Court. The courts have consistently declined to condone the delay and denied relief to litigants who are guilty of laches. Litigants who are in long slumber and not vigilant about their rights are discouraged by the courts. Belated claims are rejected at the threshold.
- (8) In view of what has been stated above, it is evidently clearly that the Courts can help to the litigants who are vigilant and the

reason put forth for the delay in filing the Special Appeal is not at all acceptable or convincing.

- (9) At this stage, learned Standing Counsel has submitted that instant case is squarely covered by the judgment and order of the Apex Court dated 29.07.2016 in *Civil Appeal No 3500 of 2006 [High Court of Punjab & Haryana v. Jagdev Singh]*.
- (10) In *S S Balu v. State of Kerala [2009 (2) SCC 479]*, the Apex Court observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.”

(emphasis supplied)

- (11) In the aforesaid judgment, the Apex Court denied the relief to the petitioner on both counts - (i) delay and (ii) similarity. Here in the instant case, the delay has not been satisfactorily explained and more over, much emphasize has been laid on the judgment of the Apex Court.
- (12) The application for condonation of delay being bereft of merit is **rejected**. Consequently the Special Appeal is also **rejected**.

(Om Prakash Shukla, J.) (Attau Rahman Masoodi, J.)

Order Date :- 30.10.2023

Shubhankar/lakshman