

Court No. - 18

Case :- CIVIL MISC REVIEW APPLICATION DEFECTIVE
No. - 244 of 2023

Applicant :- Dr. Ram Manohar Lohia Avadh University,
Faizabad Thru. Registrar And 2 Others

Opposite Party :- Kaushal Mani Tripathi And 2 Others

Counsel for Applicant :- Rajesh Tewari

Counsel for Opposite Party :- Prabhat Kumar Upadhyay

Hon'ble Saurabh Lavania,J.

**C.M.Application No.1 of 2023 (Application for Condonation
of Delay)**

Heard.

This is an application for condonation of delay filed alongwith the affidavit with a prayer to condone the delay in filing the review application under Chapter V Rule 12 of the Allahabad High Court Rules, 1952 in relation to the order passed by this Court dated 24.07.2019 in Writ Petition No. 5393 (M/S) of 2008 (Dr. Ram Manohar Lohia Avadh University, Faizabad & Others vs. Kaushal Mani Tripathi And 2 Others).

The delay indicated in preferring the review application by the Registry of this Court is of 1534 days.

The relevant averments made in the affidavit filed in support of application for condonation of delay are extracted hereinunder:-

"2. That the dismissal of the writ petition vide order dated 24.07.2019 came into the knowledge of the petitioners when the notice dated 24.08.2021 of the Execution Case No. 02/2013 was received in the office of the Review Petitioner's.

3. That thereafter the review petitioners requested their panel lawyer to take care of the proceeding pending at learned State Commission from where it transpired that the execution is being pressed due to dismissal of the writ petition filed by the University. Immediately, the status report of the writ petition was inquired and the impugned order dated 24.07.2019 came into the knowledge of the review petitioners on 24.08.2023.

4. That after getting the status of the aforesaid matter, the copy of the writ petition was searched in the University/review Petitioners as well as in the office of its panel lawyer, however, the same could not be traced at both the places. Ultimately, the review petitioners applied for the certified copy of the complete writ petition with order sheet on 27.09.2023 and the 30.09.2023. same was received on 30.09.2023.

5. That the review petitioners thereafter engaged the present counsel and sought his opinion and the matter had been discussed with him and it was resolved that the present Review Petition/application be filed before this Hon'ble Court, in the interest of justice without any further delay.

6. That thereafter the present review application was prepared in which ofcourse some delay might have taken place which is not deliberate or intention but circumstantial and in view of the fact that the case of the review petitioners stands on good merits, it is expedient and necessary in the interest of justice that the delay, if any, in filing the present review application may kindly be condoned."

From para 2, quoted above, it appears that notice of execution case No.02 of 2013, after dismissal of writ petition vide order dated 24.07.2019 (order under review) was received in the Office of review-applicant in the year 2021 itself and upon receiving the said notice the review applicant came to know about the dismissal of writ petition and on being asked learned counsel for the review-applicant very fairly submitted that notice was received in the year 2021 itself.

It is also apparent from the copy of the notice of execution case, annexed as Annexure No.1 to the affidavit filed in support of application, that the notice was received in the Office of review-applicant on 31.08.2021.

In para 3 of the application, quoted above, contrary statement has been given regarding knowledge of the order of Writ Court dated 24.07.2019, order under review. As per this para, the review-applicant on 24.08.2023 came to know about the order dated 24.07.2019.

Further, there is no explanation with regard to period w.e.f. 31.08.2021 to 24.08.2023 (alleged date of knowledge of order of writ court dated 24.07.2019).

For the reasons aforesaid, this Court is of the view that the explanation given for condonation of delay is not sufficient. Accordingly, the application for condonation of delay is hereby rejected. Consequently, the review application is also **rejected**.

Order Date :- 8.11.2023

Vinay/-