

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

LPA No. 07/2023
CM No. 7899/2023
CM No. 319/2023
CM No. 320/2023

Union Territory of J&K through Block
Development Officer (BDO), Marh, Jammu

....Appellant(s)

Through :- Mr. S. S. Nanda, Sr. AAG.

V/s

1. Sheela Devi, Age 80 years, Wd/O Kaka Ram
2. Dwarka Nath, Age 56 years
3. Naresh Kumar, Age 51 years
4. Mohinder Kumar, Age 49 years,
All sons of Late. Sh. Kaka Ram
5. Vivek Chander, Age 23 years
S/O Naresh Kumar all of Village Patniyal
Jammu
6. Commissioner/Secretary to Government,
Revenue Department, J&K Govt. Civil Sectt.
Jammu/Srinagar.
7. Financial Commissioner, Jammu.
8. Divisional Commissioner, Jammu
9. Sub-Divisional Magistrate (SDM) Marh,
Jammu.
10. Naib Tehsildar, Sajadpur, Jammu
11. Ashwani Kumar (Sarpanch) Panchayat
Sangrampur, Jammu.
12. Radha Rani, (Panch) Sangrampur Jammu
situated at Village Patnyal Ward No.6

....Respondent(s)

Through :- Mr. Jyoti Sarup, Advocate.

**Coram: HON'BLE MR. JUSTICE TASHI RABSTAN, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE**

ORDER
05.02.2024

Tashi Rabstan,J:

1. CM No.319/2023 is an application filed by the State seeking condonation of delay of 1803 days in filing the appeal.
2. In support of his submissions, Mr. S. S. Nanda, Sr. AAG appearing for the applicant submits that the judgment against which the appeal is sought to be

filed is passed on 18.12.2017. The certified copy of the said judgment was received on 16.01.2018 after 29 days. On 18.10.2022, the file was sent to the Law Department for opinion and the sanction was obtained on 21.10.2022; and the said sanction was received by the AAG on 14.11.2022 and finally, the appeal was filed on 25.01.2023. Hence, the delay of 1803 days is caused in filing the appeal.

3. Learned counsel for the applicant 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 applicant submits that the grounds in the appeal are strong on merits and the applicant is 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 applicant and perused this application.

6. On perusal of the application seeking condonation, it would transpire that the applicant is not serious in filing the appeal on time as the State has obtained the certified copy on 16.01.2018 and after 4 years 9 months, the file was sent to law department for sanction, which was given on 21.10.2022. The State has put the matter on hold for almost five years for reasons known only to it. No reason let alone plausible one is forthcoming in the application or from the submissions of the learned counsel for the State showing sufficient cause for delay. It is not a case where the judgment impugned has been passed *ex parte* and the applicant was oblivious of the passing of the judgment. The judgment is passed on 18.12.2017 and the applicant was represented by Mr. Ehsan Mirza, Dy. AG. No explanation has been tendered in the application which could justify the time which the applicant has 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!

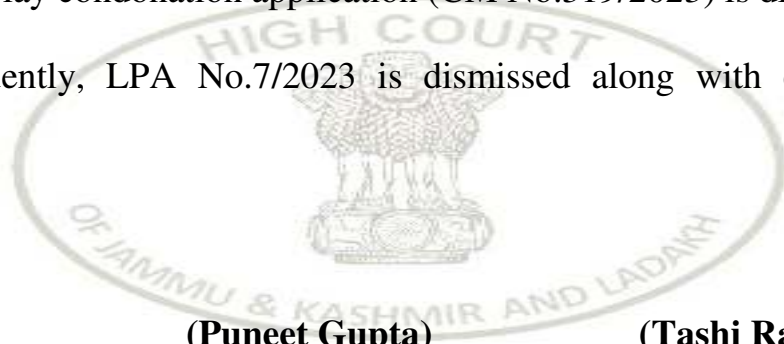
The aforesaid itself shows the casual manner in which the petitioner has approached this Court without any cogent or plausible ground for condonation of delay. In fact, other than the lethargy and incompetence of the petitioner, there is nothing which has been put on record. We have repeatedly discouraged 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 judgment, it suggests that the applicant has perceived delay in a cavalier manner as a routine matter and its lackadaisical tendency is exhibited by its nonchalant manner in which the applicant has pursued the matter. Despite the availability of huge manpower and

machinery at its disposal, the State has been in dormant state for almost 5 years after obtaining the certified copy of the judgment impugned and did not proceed ahead for obtaining sanction from the concerned authority. The reasons for such delay are not forthcoming from the application. This attitude of the applicant leads to the only inescapable conclusion that State is lethargic in approaching this matter.

10. In view of the facts and circumstances of the case, discussions made hereinabove and the settled law position, we hold that applicant has failed to show sufficient cause in making good the mammoth delay of 1803 days in filing the appeal. The delay condonation application (CM No.319/2023) is dismissed.

11. Consequently, LPA No.7/2023 is dismissed along with connected applications.



(Puneet Gupta)
Judge

(Tashi Rabstan)
Judge

Jammu:
05.02.2024
Raj Kumar

Whether the order is speaking? : Yes/No.

Whether the order is reportable? : Yes/No.