

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Revision No.48 of 2015

- =====
1. The State Of Bihar through the Secretary, Road Construction Department, Bishweshwariya Bhawan, Bailey Road, Patna.
 2. The Chief Engineer (N.H.) Road Construction Department, Bishweshwariya Bhawan, Bailey Road, Patna.
 3. The District Magistrate cum Collector, Khagaria.
 4. The Superintending Engineer, Road Construction Department N.H. Circle, Bhagalpur.
 5. The Executive Engineer, Road Construction Department N.H. Division, Khagaria
- Respondents/Petitioners.

Versus

M/s Trimurti Construction, through its Managing Partner Shri Bharat Kumar Yadav, Son of Late Ram Sharan Yadav, Resident of Village-Chukti (Manshi), P.S.-Manshi, District-Khagaria. **-Claimant/Opposite Party.**

=====

Appearance :

For the Petitioner/s : Mr. Kamlesh Kumar Sharma
For the Respondent/s : Mr.

=====

CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT

5 23-09-2015 Heard the learned counsel for the petitioners and the learned counsel for the sole respondent.

The interlocutory application (I.A.No.4780/2015) has been filed for condonation of delay of 9 months and 26 days in filing this revision application. The petitioners have questioned the award passed by the Bihar Public Works Contract Disputes Arbitration Tribunal by which the claim for a sum of Rs.16,27,385/- alongwith interest has been allowed in favour of the opposite party.



From the perusal of the averments made in the limitation petition, it is pellucid that the main plea explaining the delay is based upon the time consumed in the movement of the file at different stages /authorities. However, it has nowhere been stated that the petitioners or the authorities through whom the file moved were ignorant of the period of limitation prescribed by the statute for filing this revision application. It is also noticeable that this matter has been adjourned on earlier occasions on the prayer made by the learned counsel for the petitioners to seek instruction as to payment of the amount of cost which has also been awarded in favour of the opposite party. The learned counsel for the petitioners today has submitted that he could not get any instruction in spite of reminders to the petitioners in this regard.

The learned counsel for the opposite party has relied upon the decisions by the apex court in the case of ***Postmaster General Vs. Living Media India Limited, 2012 (3)SCC 563*** and in the case of ***State of Uttar Pradesh Vs. Amar Nath Yadav, 2014(2) SCC 422*** in order to emphasize that the State and its officers cannot be treated differently while considering the prayer for condonation of delay. Their lordships in the case of ***Postmaster General Vs. Living Media India Limited, 2012 (3)SCC 563*** have ruled as follows:



“....27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

“...28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances,



the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

“...29. 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 bonafide 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.

“...30. 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...”

The same view has been reiterated in **Amar Nath Yadav (Supra)** by the apex court.

Applying the aforesaid dictum to the facts of the present case, it is apparent that there was lack of bonafide effort by the petitioners to file the revision application in time. The casual approach in the matter is also prominent when the petitioners did not respond to inform the court regarding the payment of even the litigation cost to opposite party as awarded by the impugned order. This Court, therefore, comes to the conclusion that the petitioners

have failed to furnish acceptable and cogent explanation for the delay of 9 months 26 days in filing this revision application.

In the result, the prayer for condonation of delay as made in I.A.No. 4780/2015 is declined. The revision application is, thus, dismissed as barred by limitation.

(V. Nath, J)

Nitesh/-

U			
---	--	--	--