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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 207/2015 & CMs No.6536/2015 (for condonation of 180 days delay in filing the appeal) & 6537/2015 (for condonation of 294 days delay in re-filing the appeal)

SHRI CHANDER BHUSHAN DUBEY Appellant
Through: Mr. Manish Kumar, Adv.

Versus

UNION OF INDIA & ANR Respondents
Through: Mr. Arun Bhardwaj, CGSC with Ms.
Neha Garg, Adv. for R-1/UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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13.04.2015

1. This intra court appeal impugns the judgment dated 30th October, 2013 of the learned Single Judge of this Court of dismissal of W.P.(C) No.8920/2007 preferred by the appellant. The said writ petition was preferred *inter alia* to restrain the respondent No.2 Bharat Petroleum Corporation Ltd. (BPCL) from terminating / cancelling, suspending the sales and supplies of the retail outlet / petrol pump being run on the land of the appellant at Sheera Bassi, District-Pratapgarh, U.P. and seeking a direction to the respondent No.2 to grant dealership of the said petrol pump to the appellant.

2. The appeal is accompanied with applications for condonation of 180 days delay in filing and 294 days delay in re-filing of the appeal. The only reason given for the delay in filing the appeal is that though the appellant obtained the certified copy of the impugned judgment (presumably shortly after pronouncement of the judgment) but the same was misplaced and again the appellant obtained the certified copy and that the appellant did not know the legal technicalities and law of limitation for filing the appeal and contacted his present counsel only on 10th May, 2014 and the counsel now appearing for the appellant, after going through the file, prepared the appeal. The application is accompanied with the affidavit of the appellant which also does not state any further. There is no reason at all for the delay in re-filing and the only statement made in the application is that the delay is not intentional and deliberate. Again, the affidavit of the appellant accompanying the said application does not state any further.

3. As far as the reason given for the delay in filing is concerned, no particulars have been given as to when the certified copy was obtained and by whom i.e. by the appellant or by the Advocate who had filed and conducted the writ petition on his behalf, by whom the certified copy was

misplaced, why the appeal was not filed without the certified copy also as is always possible in today's day and time, when the judgments of the Court are instantly loaded on the website of the Court and are available for anyone to download, what steps were taken thereafter and why the appellant did not take any immediate steps for obtaining another certified copy.

4. The reason given hardly constitutes a cause much less sufficient cause for condonation of delay in filing and re-filing the appeal. As aforesaid, no reason at all has been given for substantial delay of 294 days in re-filing the appeal.

5. There is another interesting aspect. Though the appellant is stated to have contacted his present Advocate for filing the appeal on 10th May, 2014 but the appeal has come up before this Court for the first time today only, after nearly eleven months thereof. A perusal of the file shows that though the memorandum of appeal bears the dates of 26th / 28th May, 2014 and though the appeal was filed for the first time on 28th May, 2014 but was thereafter repeatedly re-filed on 14th October, 2014, 8th January, 2015, 9th January, 2015, 24th March, 2015 and 25th March, 2015. There is no explanation as to why the appeal had to be re-filed repeatedly.

6. The judgment impugned in this appeal is a judgment not only in the writ petition filed by the appellant but also in W.P.(C) Nos.4963/2007, 8785/2007, 9148/2007 & 8786/2007 and the impugned judgment records that all the said writ petitions including the writ petition filed by the appellant entailed common questions of facts and were thus being disposed of by a common judgment. We have as such enquired from the counsel for the appellant, whether any appeals were filed against the judgment of dismissal of the said other writ petitions.

7. The counsel for the appellant informs that LPA No.848/2013 preferred against dismissal of W.P.(C) No.8785/2007 was dismissed vide judgment dated 19th November, 2013 of the Division Bench. Qua the other writ petitions dismissed by the same judgment, he states that he has no instructions, whether any appeal was preferred or not. We however find that LPA No.858/2013 preferred against dismissal of W.P.(C) No.8786/2007 supra was also dismissed on 19th November, 2013.

8. Once an appeal against the dismissal of a connected writ petition also stands dismissed by the Division Bench, we see no reason to even issue notice of the applications for condonation of delay in filing and re-filing of

the appeal on sympathetic grounds also. We may notice that the controversy subject matter of the writ petition was also adjudicated in ***IBP Co. Ltd. Vs. Nand Kumar Bajpai*** 147 (2008) DLT 764 (DB) and which was followed by one of us (Rajiv Sahai Endlaw, J) in ***Roshan Lal Vs. Union of India*** MANU/DE/3998/2011, LPA No.985/2011 preferred whereagainst was dismissed on 16th December, 2011.

9. We reiterate that the applications do not disclose any ground for condonation of 180 and 294 days of delay in filing and re-filing of the appeal.

10. Under the circumstances, the applications for condonation of delay in filing and re-filing are dismissed and axiomatically the appeal is also dismissed. We refrain from imposing costs.

CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J.

APRIL 13, 2015

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