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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB P 419/2014

**M/S HINDUSTAN STEELWORKS
CONSTRUCTION LTD.**

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent
Through: Mr. Nikhil Goel, Advocate for Applicant

CORAM:

JUSTICE S.MURALIDHAR

ORDER

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20.05.2016

**IA No. 6402 of 2016(for delay in filing the review application) & RP
255/2016 & IA Nos.6403 of 2016, 6404 of 2016**

1. The Court is not convinced with the explanation offered for the extraordinary delay of 326 days in filing the application seeking review of the order dated 15th April 2015. The only explanation given is that till a notice was received from the Arbitrator in the month of February 2016, the Review Petitioner, i.e., South Delhi Municipal Corporation ('SDMC') was not even aware of this Court's order dated 15th April 2015.

2. This excuse is unacceptable. With the matter being listed before the Court and there being a Legal Officer of the SDMC who is supposed to keep track of the matters of the SDMC in the Court, there was no excuse in not following up with the counsel to ascertain what transpired in the case when it was listed on 15th April 2015.

3. It is now stated that action has been taken against the counsel who represented SDMC before this Court.

4. In *Postmaster General v. Living Media India Ltd. (2012) 3 SCC 563*, the Supreme Court has observed as under:

“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.”

5. The above decision has been reiterated in *State of Uttar Pradesh v. Amar Nath Yadav (2014) 2 SCC 422*.

6. In that view of the matter, the application seeking condonation of the extraordinary delay of 326 in filing the review application is dismissed. Consequently the review petition and all pending applications are dismissed.

S.MURALIDHAR, J

MAY 20, 2016

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