

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.427 of 2016 (O&M)

Date of Decision :29.11.2016

State of Haryana and others

....Appellants

Versus

Wahidi Begum wife of Mahmud Hassan Khan
and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present: Mr.Gagandeep Singh Wasu, Addl.AG, Haryana
for the appellants.

....

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 23.07.2014 passed in the writ petition and order dated 31.08.2015 passed in the review application but filed after an inordinate delay of 555 days. The reasons for delay have been given in paras 2 to 10 of the application under Section 5 of the Limitation Act which we consider appropriate to extract herebelow :-

“2. That the above mentioned Civil Writ Petition No.7234 of 1993 was allowed by this Hon'ble Court vide order dated 23.7.2014. However, the copy of judgment dated 23.7.2014 was received in the office of appellants on 26.8.2014. The office of Advocate General Haryana,

conveyed their opinion vide Memo dated 6.9.2014 that it is not a fit case for filing Letters Patent Appeal. The Legal Remembrancer, Haryana, vide their Memo dated 26.9.2014, was also of the view that it is not a fit case for filing Letters Patent Appeal.

3. That thereafter the case was examined in the department and it was decided to send the case to learned Advocate General, Haryana for reconsideration of their opinion on certain points. The Advocate General, Haryana on 6.1.2015 opined to file an application for Review/modification of order dated 23.7.2014. Thereafter, the Legal Remembrancer, Haryana on 13.1.2015 was requested to reconsider his opinion and issue necessary instructions to Advocate Genral Haryana for filing Review Application in this Hon'ble Court. The Legal Remembrancer, Haryana issued instructions on 16.3.2015 for filing Review Application.
4. That after preparation of the grounds of the Review Application by the office and after completing the other formalities, the application for Review was filed before the Hon'ble High Court.
5. That the said Review Application No.161 of 2015 in Civil Writ Petition No.7234 of 1993 was filed in the Hon'ble High Court vide which it was prayed that the Review application may kindly be accepted and the order dated 23.07.2014 may kindly be reviewed and appropriate order may kindly be passed in the interest of

justice, keeping in view the facts and circumstances explained in the Review Application. However, the Review Application was dismissed by the Hon'ble High Court vide order dated 31.8.2015.

6. That the copy of judgment dated 31.8.2015 was received in the office of appellants on 1.10.2015. After receiving the judgment, the case was examined by the office of Appellants and was sent to the office of Advocate General, Haryana for their opinion as to whether the case is fit for filing Letters Patent Appeal. The said opinion received in the office of Applicant in the last week of December, 2015 from the office of Advocate General Haryana that it is a fit case for filing Letters Patent Appeal.
7. That the Legal Remembrancer, Haryana, vide their Memo dated 28.12.2015 was of the view that their department does not agree with the views of Advocate Genral, Haryana that it is a fit case for filing Letters Patent Appeal. However, if the Administrative Department wants to file Letters Patent Appeal, necessary sanction of filing Letters Patent Appeal be forwarded. Therefore, the case again examined in the office of Applicants and it was decided to issue necessary sanction for filing the Letters Patent Appeal to the Legal Remembrancer, Haryana, Chandigarh vide Memo. Dated 20.1.2016.
8. That the Legal Remembrancer, Haryana, Chandigarh

conveyed their sanction vide Memo Dated 9.2.2016 to the office of Advocate General, Haryana and directed that Letters Patent Appeal may be filed against the order dated 23.7.2014 of the Hon'ble High Court on behalf of State of Haryana.

9. That thereafter all the required documents were arranged and typed out, and grounds of appeal were prepared. As per verbal discussions the Office of Advocate General, Haryana asked for the grounds of Letters Patent Appeal and accordingly the present application for condonation of delay and its affidavit were prepared along with grounds of appeal. The same were approved by the competent authority and after that were got vetted by the Office of Advocate General, Haryana on.
10. That the delay of 555 days occurred in filing the present Letters Patent Appeal has occurred due to the reasons narrated above. The matter remained under active process at different level and there is/was no intention to cause delay. The delay in filing the Letters Patent Appeal is neither intentional nor deliberate and is attributable to the official exigencies involved in process of such application. The delay occurred in the facts and circumstances explained above deserves to be condoned.”

The aforesaid explanation furnished by the appellants reveals that initially the office of Advocate General, Haryana and

the Legal Remembrancer, Haryana opined that it was not a fit case for filing LPA but the Administrative Department did not agree with their opinion. Vide order dated 18.03.2016 this Court also made it clear that if final decision of Administrative Department was to be accepted and the opinion expressed by the Advocate General or the Legal Remembrancer had no value, then why time was unnecessarily wasted by shuffling the file in different departments for seeking opinions. The appellants thereafter prayed for time to place on record an affidavit containing suggestions to remove delays particularly with a view to ensure accountability but despite availing several opportunities no affidavit containing the details of the period for which the file remained with one desk and the names of the officers manning these desks to be held responsible for unnecessary delay caused in seeking opinions has been filed. One affidavit of Shri Ram Kumar Bhukal, Under Secretary to Govt. of Haryana giving detailed reference to the litigation policy of the State formed in the year 2010 intended to cut down delays and ensure accountability of those responsible for causing the delay has been filed.

This is not an isolated case where the appeal has been filed by the the State in a casual manner with an inordinate and unexplained delay. In most of the cases loose narration of events

referring to shuffling of files and no particulars of the officials who have dealt with the files are furnished so as to enable us to understand the exact cause of delay.

Even though some leeway can be given to the State to condone the delay on account of the procedures involved, yet the courts would be reluctant to interfere when absolutely no justification is offered as to why the file lingered on in a particular office which is well equipped with legal acumen and expected to be aware of the law of limitation. In our opinion the State should not be treated any differently from a common litigant to hold out a longer rope to it than to an ordinary litigant approaching the courts for redressal of his grievance.

All this goes to show complete apathy to the legal process. We are also constrained to observe that there is absolutely no justification manifesting itself from the contents of the application in seeking repeated legal opinions.

The Hon'ble Supreme Court in *Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr.* **2012(2)S.C.T.269** has also observed as under :

“13. 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.

Keeping the aforesaid in view, we are of the opinion that the explanation for delay offered by the appellants is not worth acceptance.

Appeal dismissed on the ground of delay.

(MAHESH GROVER)
JUDGE

29.11.2016
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No