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

+ O.M.P. (COMM) 354/2016

U.P. TECHNICAL EDUCATION DEPARTMENT Petitioner
Through Mr. Anil Mittal, Adv.

versus

rites & ANR Respondents
Through Mr. Udit Seth, Adv. for R-1.
Mr. Aneesh Mittal, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

O R D E R

% **01.08.2016**

I.A. No.9056/2016 (exemption)

Exemption allowed, subject to just exceptions.

The application is disposed of.

O.M.P. (COMM.) No.354/2016, I.A. No.9055/2016 (for stay),

I.A. No.9057/2016 (for condonation of delay of 26 days in re-filing the petition) and I.A. No.9054/2016 (for condonation of delay of 333 days in filing the petition)

The Award in the above said matter was published on 28th February, 2015. The present objections under Section 34 of the Arbitration and Conciliation Act, 1996 challenging the impugned Award have been filed by the petitioner on 28th July, 2016.

In view of the judgment passed by the Supreme Court in the case of *Union of India v. M/s Popular Constructions Co.*, reported in AIR 2001 SC 4010, the application under Section 5 of the Limitation Act or Section 151 CPC for condoning the delay after the prescribed period is not maintainable

and the delay cannot be condoned in case the prescribed period as stipulated in Section 34 of the Act has been lapsed.

Learned counsel for the petitioner, however, has referred the decision of the Supreme Court in the case of ***Salem Advocates Bar Association v. Union of India***, 2005(6) SCC 344. The said judgment does not help the case of the petitioner, as the same does not pertain to an arbitration matter, rather the present case is an arbitration matter and the objections filed in the present case are under Section 34 of the Act. Sub-Section (3) of Section 34 of the Act mandates that “*An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under Section 33, from the date on which that request had been disposed of by the arbitral tribunal: Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.*”

In the present case, the objections are filed after more than one year and 5 months. The period for filing the main petition cannot be extended in view of the decision of the Supreme Court in the case of ***Union of India v. M/s Popular Constructions Co.*** (supra). Under these circumstances, the application for condonation of delay in filing the objections is dismissed. Consequently, the main petition is also dismissed. Pending applications also stands disposed of.

MANMOHAN SINGH, J.

AUGUST 01, 2016/ka