

HIGH COURT OF CHHATTISGARH AT BILASPUR

REVIEW PETITION NO. 13 OF 2017

1. Jitendra Kumar Bareth S/o Shri Bhauram Bareth, Aged About 44 Years R/o Village & Post Rasouta, Tahsil Baloda, District Janjgir-Champa, Chhattisgarh
2. Tapodhan Singh S/o Shri Teekam Singh, Aged About 46 Years R/o Near City Kotwali Janjgir, District Janjgir-Champa, Chhattisgarh

... Applicants

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Panchayat & Rural Development, Mantralaya, Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. The Director, Panchayat & Rural Development Department Raipur, Chhattisgarh
3. The Collector, Korba, District Korba, Chhattisgarh
4. Chief Executive Officer, Zila Panchayat Korba, District Korba, Chhattisgarh
5. Chief Executive Officer, Janpad Panchayat Kartala District Korba, Chhattisgarh
6. Chhattisgarh Professional Examination Board Raipur, District Raipur, Chhattisgarh, Through The Examination Controller
7. Shri Sanjay Rathore S/o Manharan Lal Rathore, Aged About 24 Years R/o New Chandaniyapara, Ward No.7, Vishnu Tailor, Janjgir, District Janjgir-Champa, Chhattisgarh
8. Smt. Abha Diwan W/o Shri Gulabdhhar Diwan, Aged About 35 Years R/o Bazarpara, Janjgir District Janjgir-Champa, Chhattisgarh
9. Smt. Garima Rani W/o Shri Parmeshwar Prasad, Aged About 32 Years R/o C/o Dattatrey Sharat, Behind Primary School B.D.Mahand Upnagar, Janjgir District Janjgir-Champa, Chhattisgarh
10. Smt. Preeti Pandey Aged About 32 Years R/o C/o Dattatrey Sharat, Behind Primary School B.D.Mahand Upnagar, Janjgir District Janjgir-Champa, Chhattisgarh
11. Smt. Sandhya Sahu W/o Vinod Kumar Sahu, Aged About 39 Years R/o N.H.No.200, Near Hotel Dream Point, Janjgir District Janjgir-Champa, Chhattisgarh
12. Smt. Shalini Sharma W/o Rajeshwar Sharma, Aged About 34 Years R/o Near Barambaba Mandir, Purani Basti, Janjgir, District Janjgir-Champa, Chhattisgarh
13. Chandra Kumar Baghel S/o Tij Ram Baghel, Aged About 27 Years R/o Village Parsabhatha, P O Khaija Pahariya, Tahsil Baloda, District Janjgir-Champa, Chhattisgarh
14. Pradeep Kumar Rathore S/o Ayodhya Prasad Rathore, Aged About 34 Years R/o Village & P O Dharashiv, Tahsil Janjgir, District Janjgir-Champa, Chhattisgarh
15. Smt. Chandrawati Vaishnav W/o Lalit Das Vaishnav, Aged About 38 Years R/o B.D.Mahant Upnagar, N T P C Colony, Janjgir, District Janjgir-Champa, Chhattisgarh
16. Ku. Sunita D/o Jagmohan Singh, Aged About 29 Years R/o Village & P O Nehru Nagar, Batari, Tahsil Katghora, District Korba, Chhattisgarh
17. Mukesh Patel S/o Tak Ram Patel, Aged About 27 Years R/o Village Amruwa, P O Darang, District Janjgir-Champa, Chhattisgarh
18. Sammi Sagar S/o Sukh Sagar, Aged About 27 Years R/o Village Bhainso, Tahsil Pamgarh, District Janjgir-Champa, Chhattisgarh

19. Smt. Hemlata Yadav W/o Chandra Prakash Yadav, Aged About 35 Years R/o Kera Road, Janjgir, District Janjgir-Champa, Chhattisgarh
20. Smt. Chanchala Mishra W/o Rakesh Mishra, Aged About 41 Years R/o Netaji Subhash Chowk, Bazar Marg, Janjgir, District Janjgir-Champa, Chhattisgarh
21. Smt. Madhu Sharma W/o Dashrath Prasad Sharma, Aged About 39 Years R/o Vinod Cycle Stores, Purani Hatri Chowk, Purani Basti, Janjgir, District Janjgir-Champa, Chhattisgarh
22. Amma Begam D/o Hanif Mohammad, Aged About 30 Years R/o Village Jarve Hardi Mahamaya, District Janjgir-Champa, Chhattisgarh
23. Ritesh Kumar Madhukar S/o Ravishankar Madhukar, Aged About 33 Years R/o Village Pachmedi, Tahsil Masturi, District Bilaspur, Chhattisgarh
24. Dilip Kumar Soni S/o Roop Ram Soni, Aged About 46 Years R/o Shyam Bazar Baloda, District Janjgir-Champa, Chhattisgarh
25. Smt. Sunita Chouhan W/o Naresh Chouhan, Aged About 36 Years R/o Village & P O Ginbahar, Tahsil Kunkuri, District Jashpur, Chhattisgarh
26. Malik Ram Sahu S/o Lakhan Ram Sahu, Aged About 27 Years R/o C/o N.K.Sahu, Vidyasagar Vidyalaya, Pandariya, District Kabirdham, Chhattisgarh
27. Dharmendra Singh Rajput S/o Shyam Lal Rajput, Aged About 24 Years R/o Village Venkat Navagaon, P O Lormi, District Bilaspur, Chhattisgarh
28. Kamlesh Kumar S/o Konda Ram, Aged About 29 Years R/o Ward No.10, Pandariya, District Kabirdham, Chhattisgarh
29. Tuka Ram Chandrakar S/o Ram Nihora Chandrakar, Aged About 26 Years R/o Village & P O Bagharra, Tahsil Pandariya, District Kabirdham, Chhattisgarh
30. Gaukaran Prasad Sahu S/o Ganesh Ram Sahu, Aged About 32 Years R/o Village Kuli, P.O. Khamhariya, P. S. Seepat, District Bilaspur, Chhattisgarh
31. Smt. Geeta Chouhan W/o Sukhdev Singh Chaouhan, Aged About 46 Years C/o K.K.Sahu, Gali No.2, Jawahar Nagar Akaltara, District Janjgir-Champa, Presently Residing At L I G-381/b, Housing Board Colony, Devrikhurd, Bilaspur, District Bilaspur, Chhattisgarh
32. Ghanshyam Prasad Koushik S/o Janak Lal Koushik, Aged About 27 Years C/o Teekam Chand Koushik, Village Devri, P.O. Khuma, Tahsil Kargi Road Kota, District Bilaspur, Chhattisgarh

... Non-applicants

For Applicants : Ms. Ruchi Nagar, Advocate.

Hon'ble Shri Pritinker Diwaker, Acting Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/03/2017

Per P. SAM KOSHY, J.

1. Heard on I.A. No.1, which is an application for condonation of delay in filing the present review petition, which is barred by limitation of 627 days.
2. The present review petition has been filed by the Applicants seeking for a review of order dated 3.3.2015 passed by the Division Bench of this Court in Writ Appeal No. 1002 of 2012.

3. The present review petition has been filed on 21.12.2016. There is an inordinate unexplained delay of 627 days in the filing of the same. Along with the review petition, there is also an application for condonation of delay i.e. I.A. No. 1. Relevant portion is paragraph 2 of the said application. This is the only explanation which has been given by the Applicants seeking for condonation of delay of 627 days.

4. What is pertinent to take note is the fact that in the application for condonation of delay, no specific details have been given by the Applicants in respect of each days delay consumed in the filing of the present review petition. What also cannot be brushed aside is the fact that the Applicants at no point of time have stated that they were not aware of the order of the Division Bench and therefore it has to be presumed that it was within their knowledge and the said plea could not have also been raised, as the order in the writ appeal was a bipartite order and was passed on Board in the presence of the lawyers representing each of the parties. So, for all practical purposes, it has to be accepted that the Applicants were aware of the order on the date of its pronouncement i.e. 3.3.2015. The only ground seeking for condonation of delay is the fact that, subsequently the Applicants came to know about a decision passed by the learned Single Bench of this Court in Writ Petition (S) No. 6056 of 2014 which came to be decided on 16.7.2015. The review petition, if we look into the details, would show that it was even filed after about 1½ years, after the decision passed by the learned Single Bench in another matter.

5. It is well settled position of law that if a person has not taken prompt action in approaching the Court immediately on the cause of action having arisen (which in the instant case is for reconsideration of the order passed on 3.3.2015), he cannot take benefit of approaching the Court at a later stage

that too belatedly, only on the basis of some other person getting some relief in an altogether different writ petition.

6. In 1996 (6) SCC 267 (State of Karnataka & Ors. v. S.M. Kotrayya & Ors.), the Hon'ble Supreme Court rejected the contention of the petitioners therein for ignoring the delay and laches, on the ground that the petition was filed just after they came to know of a relief been granted by the Court in a similar case. It was held that the same cannot be accepted as proper explanation for delay and laches. This view was further reiterated in the case of Jagdish Lal & Ors. v. State of Haryana & Ors. [1997 (6) SCC 538], wherein, rejecting the petition, the Hon'ble Supreme Court held that the petitioners were not vigilant but were content to be dormant and chose to sit on the fences till somebody's case came to be decided, and held that such pleas of a claim being raised on the basis of an altogether different writ petition would not be amenable to judicial review at a belated stage.

7. In the case of Cicily Kallarackal v. Vehicle Factory [2012 (8) SCC 524], dealing with the issue of condonation of delay, while holding that a liberal approach in condoning the delay would lead to negating the law of limitation, the Hon'ble Supreme Court in paragraph 7 has held as under:

“7. In the instant case, condoning such an inordinate delay without any sufficient cause would amount to substituting the period of limitation by this Court in place of the period prescribed by the legislature for filing the special leave petition. Therefore, we do not see any cogent reason to condone the delay.”

8. Again in 2013 (12) SCC 649 (Esha Bhattacharjee v. Raghunathpur Nafar Academy), the Hon'ble Supreme Court in paragraphs 21 and 22 had laid down certain guidelines to be borne in mind while dealing with the application for condonation of delay, relevant portion of which is reproduced herein under:

“21. From the aforesaid authorities the principles that can broadly be culled out are:

21.1. (i) xxx xxx xxx

21.2. (ii) xxx xxx xxx

- 21.3. (iii) xxx xxx xxx
- 21.4. (iv) xxx xxx xxx
- 21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.
- 21.6. (vi) xxx xxx xxx
- 21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.
- 21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.
- 21.9. (ix) xxx xxx xxx
- 21.10. (x) xxx xxx xxx
- 21.11. (xi) xxx xxx xxx
- 21.12. (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.
- 21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude.

22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:

- 22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.
- 22.2. (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.
- 22.3. (c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.
- 22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters.”

9. Recently also in the case of Basawaraj & Ors. v. Special Land Acquisition Officer [2013 (14) SCC 81], dealing with a plethora of preceding judgments of the Hon'ble Supreme Court, considering the point of sufficient cause, the Supreme Court in paragraph 9 has discussed in the following manner:

“9. Sufficient cause is the cause for which defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word

"sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors., AIR 1964 SC 1336; Lala Matadin v. A. Narayanan, AIR 1970 SC 1953; Parimal v. Veena @ Bharti AIR 2011 SC 1150; and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai AIR 2012 SC 1629.)"

Again dealing with the issue of limitation in paragraphs 12 and 15 it was held as under:

"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the

delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

10. The view taken in the case of Basawaraj (supra) has further been reiterated in 2014 (11) SCC 351 (Brijesh Kumar & Ors. v. State of Haryana & Ors.).

11. On a careful consideration of the entire gamut of facts and circumstances of the present review petition and applying the standards as envisaged in the preceding paragraphs, we are of the considered opinion that the present is not a fit case calling for condoning the delay of 627 days in preferring the review petition, as there is no sufficient cause explained by the Applicants.

12. In view of above, I.A. No. 1, the application for condonation of delay in filing the present review petition, is dismissed. Consequently, the review petition also stands dismissed.

Sd/-
(Pritinker Diwaker)
Acting Chief Justice

Sd/-
(P. Sam Koshy)
Judge