

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.255 OF 2016
IN
REVIEW PETITION (ST) NO.26592 OF 2015
IN
WRIT PETITION NO.5400 OF 1996**

Security Printing and Minting Corporation
of India Ltd. and Ors.

.. Applicant

vs.

The Workmen Through the
General Secretary and Anr.

.. Respondents

Mrs.Tanmaji Gadre-Rajdhyaaksha i/b Mr.Upendra Lokegaonkar for the
applicant

Mr.Rahul Walia for the respondent no.1

**CORAM : K. K. TATED, J.
DATE : APRIL 12, 2017**

PC.:

- 1 Heard the learned counsel for the parties.
- 2 Liberty granted to the applicant to delete the name of respondent no.2 from the cause title of the present Civil Application. Amendment be carried out during the course of the day.
- 3 This application is for condonation of 399 days delay in filing the Review Petition to review the order dated 3rd / 4th August, 2010 passed

by learned single Judge of this court in Writ Petition No.5400 of 1996.

4 The learned Counsel for the applicant submits that as soon as the judgment was passed by the learned single Judge of this court on 3rd / 4th August, 2010, the same was challenged before the Division Bench of this court. The Division Bench dismissed the Letters Patent Appeal on 24.04.2009.

5 Thereafter, the applicant preferred SLP No.5534 of 2011. She submits that the Apex Court by order dated 22.07.2014 allowed the applicant to withdraw the SLP with liberty to file Review Petition. She submits that thereafter the concerned advocate informed to the officer in charge about the order passed by Apex Court. As soon as they received copy of Apex Court order, matter was placed before the concerned officer to take decision for filing the Review Petition. She submits that for taking the decision to file Review Petition on behalf of applicant, they have to take decision at several levels. To that effect, the learned Counsel for the applicant relies on paragraph 13 of the Affidavit in rejoinder dated 4.4.2017 which reads thus:

“13. With reference to para 21 of the Reply, I specifically deny that casual, insincere and unacceptable statements have made with regard to various sanctions to be obtained for filing the Review. I respectfully submit that the Respondent is trying to wrongly interpret the said averments of the Applicant. I say that various sanctions are in the form of endorsements of the concerned officers of the concerned Desks of the Applicant Unit at Nashik and the head Office at New Delhi. I deny that the approach of the Applicant is surprising and hypocritical. I respectfully submit that the various Officers, who are required to endorse / give noting in the India Security Press, Nashik Unit and the Corporate Unit, are as under:

AT UNIT LEVEL : i.e. ISP Nashik Unit

Dealing Officer
|
Reporting Officer
|
Operational Head
|
General Manager

THE FILE IS RETURNED / ROTATED IN THE FOLLOWING ORDER:

General Manager
|
Operational Head
|
Reporting Officer
|
Dealing Officer

After receipt of the file by the Dealing Officer, the concerned Dealing Officer sends the said file to Corporate Office (Head Office) at New Delhi for seeking further sanction.

At Corporate Office / Head Office Level, New Delhi

Dealing Officer
|
Additional Gen. Manager (H.R.)
|
Director (H.R.)

THE FILE IS RETURNED / ROTATED IN THE FOLLOWING ORDER:

Director (H.R.)
|
Additional General Manager (H.R.)
|
Dealing Officer

I say that various sanctions mean endorsements / remarks of the said officers. I say that the Respondent is trying to make incorrect interpretation of the various sanctions sought by the Applicant.”

6 The learned Counsel for the applicant submits that in taking approval at several levels, there was delay on their part to prefer the present Review Petition. The learned Counsel for the applicant further submits that being a Government Body unless and until matter is cleared by the higher authority it is not possible for them to take immediate steps for filing the litigation. In support of this contention, the learned Counsel for the applicant relies on paragraph 7 to 17 of the Civil Application.

7 The learned Counsel for the applicant submits that the applicant being a Government Body they have to take decision at several levels and apart from that they have good chance of success in the Review Petition. She submits that the Apex Court in the matter of ***State of Nagaland vs. Lipok AO and Others, (2005) 3 SCC 752*** held that sufficient cause is condition precedent for exercise of extraordinary discretion vested in the court. What counts is not the length of the delay but the sufficiency of the cause and shortness of the delay is one of the circumstances to be taken into account in using the discretion. She relies on paragraph 13 and 15 of the said judgment which reads thus:

“13. Experience shows that on account of an impersonal machinery (no one in charge of the matter is directly hit or hurt by the judgment sought to be subjected to appeal) and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on- the-buck ethos,

delay on its part is less difficult to understand though more difficult to approve. The State which represents collective cause of the community, does not deserve a litigant-non-grate status. The courts, therefore, have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression of sufficient cause. Merit is preferred to scuttle a decision on merits in turning down the case on technicalities of delay in presenting the appeal. Delay as accordingly condoned, the order was set aside and the matter was remitted to the High Court for disposal on merits after affording opportunity of hearing to the parties. In *Prabha v. Ram Parkash Kalra*, 1987 Supp SCC 339, this Court had held that the court should not adopt an injustice-oriented approach in rejecting the application for condonation of delay. The appeal was allowed, the delay was condoned and the matter was remitted for expeditious disposal in accordance with law.”

“15. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay - intentional or otherwise - is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice- oriented process. The court should decide the matters on merits unless the case is hopelessly without merit. No separate standards to determine the cause laid by the State vis-a-vis private litigant could be laid to prove strict standards of sufficient cause. The Government at appropriate level should constitute legal cells to examine the cases whether any legal principles are involved for decision by the courts or whether cases require adjustment and should authorise the officers to take a

decision or give appropriate permission for settlement. In the event of decision to file appeal needed prompt action should be pursued by the officer responsible to file the appeal and he should be made personally responsible for lapses, if any. Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while State is an impersonal machinery working through its officers or servants.”

8 On the basis of these submissions and the authority in the matter of *State of Nagaland vs. Lipok AO and Others* (Supra) the learned Counsel for the applicant submits that in the interest of Justice, this Hon'ble Court be pleased to condone the delay in preferring the Review Petition and allow the present Civil Application. She submits that if delay is not condoned, irreparable loss will be caused to the applicant. She submits that they have good chance of success in this matter.

9 On the other hand, the learned Counsel for the respondent vehemently opposed the present Civil Application. He submits that applicant failed and neglected to show sufficient cause for condonation of delay. He submits that bare reading of Civil Application as well as additional affidavits filed by the applicant shows that applicant has casually dealt with the present matter.

10 The learned Counsel for the respondent submits that though the Apex Court passed order on 22.7.2014 allowing the applicant to file Review Petition, the present Review Petition was filed by the applicant on 28.7.2015 i.e. after more than one year. He submits that the said inordinate delay cannot be condoned just because the applicant is a government undertaking.

11 The learned Counsel for the respondent submits that the applicant failed to disclose the manner in which they have to take decision for filing litigation on behalf of them. He submits that in any case, the law of limitation is applicable to the Government organisation also.

12 The learned Counsel for the respondent submits that inordinate delay of 399 days cannot be condoned unless and until sufficient cause is shown by the applicant. In support of this contention, the learned Counsel for the respondent relies on the judgment of the Apex Court in the matter of *Basawaraj and Another vs. Special Land Acquisition Officer, (2013) 14 SCC 81*. He relies on paragraph 9 and 15 which reads thus:

“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 and 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.”

“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.”

13 The learned Counsel for the respondent also relies on the judgment of the Delhi High Court in the matter of *Union of India vs. Kundan*, AIR 1977 Delhi 38. He submits that in this authority also, the Delhi High Court has held that negligence on the part of applicant in pursuing the litigation cannot be a ground for condonation of delay. He relies on paragraph 23 of this authority which reads thus:

“23. We are not oblivious of the fact that the appellant is the Union of India. But as the Supreme Court has said expression 'sufficient cause' is not to be liberally construed

because the party in default was the Government.”

14 On the basis of these submissions, the learned Counsel for the respondent submits that as the applicant failed and neglected to show sufficient cause for condonation of inordinate delay of 399 days in filing the Review Petition, the present Civil Application is required to be dismissed with costs.

15 I have heard both the sides.

16 I have gone through the copy of Affidavit in reply filed by the respondent as well as additional affidavit in rejoinder filed by the applicant in support of the present Civil Application.

17 In the present proceeding, the Apex Court on 22.7.2014 allowed the applicant to withdraw the SLP with liberty to file Review Petition. Being a government organisation, they have to take decision at several levels. Hence, the file was moved before several authorities as explained by the applicant in affidavit in rejoinder dated 4.4.2017, particularly paragraph 13.

18 It is to be noted that the Apex Court in the matter of ***N.Balkrishnan Vs. M. Krishnamurthy (1998) 7 SCC 123*** held that the object of fixing the time limit is not meant to destroy the rights. The law of limitation fixes a lifespan for such legal remedy for the general welfare. Paragraph Nos.11, 12 and 13 of the said judgment read thus :

11. Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury.

Law of limitation fixes a life-span for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a life span must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim Interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. *A Court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words "sufficient cause" Under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari, 1969 SC 575 and State of West Bengal v. The Administrator, Howrah Municipality, AIR 1972 SC 749.*

13. *It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the court should lean against acceptance of the explanation. While condoning delay the Court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite a large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant the court shall compensate the opposite party for his loss."*

19 The authority cited by the learned Counsel for the respondent in

the matter of *Basawaraj and Another vs. Special Land Acquisition Officer* (Supra) held that if sufficient cause is not shown then only the application for condonation of delay is required to be dismissed. In that case there was delay of more than 5 ½ years in filing the Appeal. Whereas in the case in hand delay is 399 days. In any case the Apex Court in this authority in paragraph 15 specifically held that if sufficient cause is shown the court has to consider the application for condonation of delay on its own merits. In the case in hand, I am of the opinion that considering the averments made by the applicant in paragraph 7 to 17 of the Civil Application and paragraph 13 of the Affidavit in rejoinder dated 4.4.2017, applicant has shown sufficient cause.

20 The authority cited by the respondent in the matter of *Union of India vs. Kundan* (Supra), is also not applicable in the facts and circumstance of the present case. In the case in hand, the applicant has shown sufficient cause for condonation of delay.

21 Considering the fact that in the present case, the applicant being a government organisation requires to take decision at several levels and therefore, there was delay on their part to file the Review Petition, the Apex court in the matter of *State of Nagaland vs. Lipok AO and Others* (Supra) specifically held in paragraph 13 and 15 that on behalf of government it is very difficult to take a decision immediately by one officer only. Therefore, those facts are also required to be considered at the time of deciding the application for condonation of delay.

22 Considering the abovementioned facts, the reason disclosed in the Civil Application, the affidavit in rejoinder and the authorities

referred hereinabove, I am of the opinion that applicant has made out a case for allowing the present Civil Application but at the same time, they have to pay cost. It is to be noted that in the present proceeding, this court has imposed cost of Rs.5,000/- by order dated 5.4.2017.

23 The learned counsel for the applicant across the bar made a statement that they have already complied the said order. Considering these facts, applicant has to pay cost of Rs.750/- to the respondent. Cost to be paid within two weeks from today. Hence, following order is passed:

- a) Civil Application is allowed.
- b) Delay of 399 days in filing the Review Petition is condoned.
- c) Applicant to pay cost of Rs.750/- to the respondent and or to deposit in the Registry of this court within two weeks from today.
- d) If cost is deposited in the Registry within stipulated time as stated hereinabove, Respondent is entitled to withdraw the same without any security.
- e) If cost is not deposited within stipulated time as stated hereinabove, Civil Application shall stand dismissed without referring back to the court.
- f) Civil application stands disposed off accordingly.

(K.K.TATED, J.)