

3 It is vehemently argued by the learned Advocate appearing for the respondent No.1 that the delay caused in filing revision petition is not at all *bona fide*. In its submission, the delay is rather *mala fide*, as after discharge of the respondent No.1/original accused No.1 from the Special Case, now the accused No.2, whose case is on better footing than the discharged accused, has moved an application for discharge, therefore, this revision petition is filed accompanied by the instant application for condonation of delay.

4 The learned Advocate for the respondent No.1 drew my attention to the chronology of evidence stated by the applicant for condonation of delay. He argued that for first 15 days even the certified copy of the order sought to be impugned was not applied. Then 30 days were wasted for the reason that the appointed Advocate was expecting renewal of his term. After second week of July, two months were spent on exchange of documents. Thereafter, 18 days were spend in discussing the matter at various levels and 15 days time was taken by the applicant for filing the revision petition accompanied by the present application.

5 With this, the learned Advocate argued that it cannot be said that the applicant/Union of India was prevented by sufficient cause in not preferring the revision petition in time and, as such, the delay which is not shown to be a *bona fide* delay is not required to be condoned.

6 I have considered the rival submissions. I have also perused averments made in the application for condonation of delay. The following are the guidelines given by the Honourable Apex Court in the matter of condonation of delay in its Judgment in the matter of **The Collector Land Acquisition v. Mst.Katiju**, reported in **1987 AIR 1353** as under :

- 1 Ordinarily a litigant does not stand to benefit by lodging an appeal late.
2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.
3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.
4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.
5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.
6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

6 In the wake of guidelines was given by the Honourable Apex Court, the delay in preferring the application is condoned. The application is accordingly disposed of.

(A.M.BADAR J.)