

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE  
STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

W.A.M.P.No. 2720 OF 2017

IN/AND

W.A.No. 1462 OF 2017

Between:

The State of Andhra Pradesh,  
Rep. by its Principal Secretary,  
Collegiate Education, Secretariat Buildings,  
Velagapudi, Amaravathi,  
Guntur District, and others

... Appellants

AND

Darsi Phebe Sarah and another

... Respondents

Date of Judgment Pronounced : 10-10-2017

SUBMITTED FOR APPROVAL:

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY  
AND**

**THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI**

1. Whether Reporters of Local newspapers  
May be allowed to see the judgment? Yes/No
2. Whether the copy of judgment may  
be marked to Law Reporters/Journals? Yes/No
3. Whether Their Lordships wish to see the  
Fair copy of the judgment? Yes/No

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***C.V.NAGARJUNA REDDY, J.***

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***K.VIJAYA LAKSHMI, J.***

**\*THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**  
**AND**  
**THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI**

**+ W.A.M.P.No. 2720 OF 2017**  
**IN/AND**  
**W.A.No. 1462 OF 2017**

**%Dated: 10-10-2017**

#The State of Andhra Pradesh,

Rep. by its Principal Secretary, Collegiate Education,

Secretariat Building, Velagapudi, Amaravathi,

Guntur District, and others

... Appellants

VERSUS

\$Darsi Phebe Sarah,

W/o G.Israel, Lecturer in Botany (Unaided),

A.C. College, Guntur,

Guntur District, and another

... Respondents

!Counsel for the appellants : G.P. for Higher Education (A.P.)

^Counsel for respondent No. 1 : Sri N.Bharat Babu

**<GIST :**

**>HEAD NOTE :**

**?Cases referred :**

1. AIR 1987 SC 1353
2. (2012) 3 SCC 563
3. 2014 (4) SCC 108

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**AND**

**THE HON'BLE SMT. JUSTICE K.VIJAYA LAKSHMI**

**W.A.M.P.No. 2720 OF 2017**

**IN/AND**

**W.A.No. 1462 OF 2017**

**DATED 10<sup>TH</sup> OCTOBER, 2017**

Between:

The State of Andhra Pradesh,  
Rep. by its Principal Secretary,  
Collegiate Education, Secretariat Buildings,  
Velagapudi, Amaravathi,  
Guntur District, and others ... Appellants

AND

Darsi Phebe Sarah and another ... Respondents

Counsel for the appellants : G.P. for Higher Education (A.P.)

Counsel for respondent No. 1 : Sri N.Bharat Babu

Counsel for respondent No. 2 : --

**THE COURT MADE THE FOLLOWING**

**COMMON JUDGMENT:** (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

W.A.M.P.No. 2720 of 2017 is filed for condonation of delay of 1380 days in filing W.A.No. 1462 of 2017 against order dated 30-10-2013 in W.P.No. 20036 of 2003.

2. Besides respondent No. 1 filing counter affidavit, Sri P.Gangaiah Naidu, learned senior counsel appearing on her behalf, has strongly opposed this application.

3. A perusal of the affidavit filed in support of this application shows that substantial part of the affidavit is devoted to the *factum* of the applicants carrying the matter to the Supreme Court by way of a Special Leave Petition against certain orders passed by this Court in the matter of absorption of unaided lecturers into aided vacancies and passing of an *interim* order by the Supreme Court on 16-12-2014 and final order on 19-04-2106 impliedly indicating that they were awaiting the result of the S.L.P. before filing this Writ Appeal. Concededly, though the subject matter before the Supreme Court in the S.L.P. pertains to general issue relating to absorption of unaided lecturers into aided vacancies, the issue in the present case is not the subject matter before the Supreme Court. Therefore, we do not find any justification for the applicants to await disposal of the S.L.P.

pending before the Supreme Court for filing a Writ Appeal in the present case. Even if we assume in favour of the applicants that they were justified in awaiting disposal of the S.L.P., that was disposed of as far back as 19-04-2016. The Writ Appeal was filed on 01-08-2017 which means that even after the disposal of the S.L.P., the applicants failed to file the appeal for as long as 16 months. No semblance of explanation has been offered for this substantial delay.

4. In considering the applications for condonation of delay, Courts generally used to show more latitude towards Government and other public bodies in realization of the fact that unlike a private litigant, State and public institutions are manned by employees who do not have personal interests at stake and that the process of running files consumes considerable time, as held by the Apex Court in *Collector, Land Acquisition, Anantnag Vs. Mst. Katiji*<sup>1</sup>. However, the Apex Court in *Postmaster General Vs. Living Media India Limited*<sup>2</sup> struck a different note. While dealing with the application filed by Government and public authorities, the Supreme Court held in para Nos. 12 & 13 as under:

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<sup>1</sup> AIR 1987 SC 1353

<sup>2</sup> (2012) 3 SCC 563



"12. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

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 bonafide 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."*

In ***Chennai Metropolitan Water Supply & Sewerage Board & others Vs. T.T.Murali Babu***<sup>3</sup>, the Supreme Court held in para No. 16 as under:

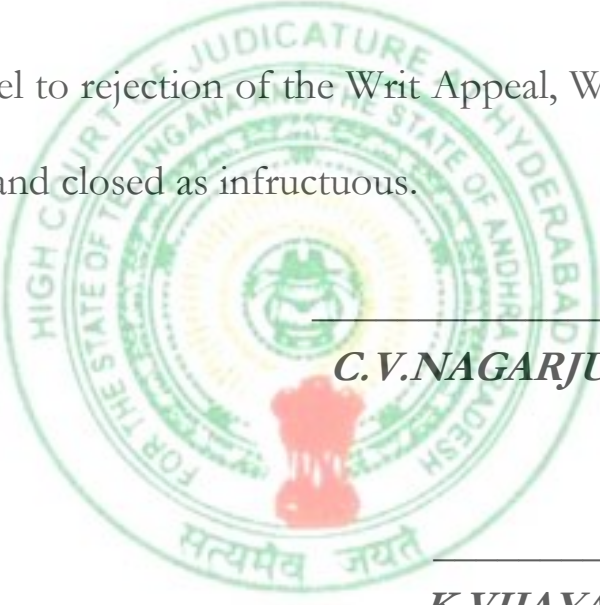
*"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances, delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis."*

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<sup>3</sup> 2014 (4) SCC 108

5. Applying the ratio laid down in the abovementioned judgments and having regard to the total absence of reasons much less plausible reasons for causing the inordinate delay of 1380 days in filing the Writ Appeal, we find that this is not a fit case for us to exercise our discretion to condone the huge delay of 1380 days. Hence, W.A.M.P.No. 2720 of 2017 is dismissed. As a necessary consequence thereof, W.A.No. 1462 of 2017 is rejected.

6. As a sequel to rejection of the Writ Appeal, W.A.M.P.No. 2719 of 2017 shall stand closed as infructuous.



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***C.V.NAGARJUNA REDDY, J.***

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***K.VIJAYA LAKSHMI, J.***

Date: 10-10-2017.

Note: L.R. Copies to be marked.

B/O

JSK