

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.2197 of 2016 (O&M)

Date of Decision : 01.02.2017

Block Education Officer and others

....Appellants

Versus

Krishan Kumar and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Vishal Garg, Addl. Advocate General, Punjab
for the appellants.

.....

MAHESH GROVER, J. (Oral)

This appeal has been filed with an inordinate delay of 243 days. Initially an application under Section 5 of the Limitation Act accompanied by an affidavit of Shri Sohan Lal, Head Master, Govt. Girls High School, Nidana was filed, which did not meet the requirement of law as no reason for delay had been given therein. We then granted time to the appellants to file a better affidavit which has now been appended along with C.M.No.229-LPA of 2017 wherein in para Nos.3 and 4 it has been averred as follows :-

"3. That the Hon'ble Single Judge has allowed the writ petition filed by the respondents on 15.01.2016. The appellants, thereafter, took necessary approvals from the Legal Department for preferring an

appeal on the basis of copy of order dated 15.01.2016 which was uploaded on the website of this Hon'ble Court. The file had to pass through various channels for seeking the approval and same had been put for opinion on 21.01.2016 and thereafter, the file was received back on 27.01.2016. The file again was submitted for further opinion to law officer on 18.05.2016 and the same was returned on 18.07.2016. After taking the necessary approvals/opinions of the law officer, a letter was sent to the concerned department on 19.07.2016. Thereafter, the certified copy of the same was applied on 21.07.2016. Thereafter, the necessary sanctioned was received from the Legal Remembrancer, Haryana on 2.8.2016.

4. That time was also consumed to make available all the requisite record of the case. Thereafter, immediately the grounds of appeal and other necessary applications were prepared. The draft grounds of appeal were sent for approval to the concerned department on 10.08.2016. Then the grounds of appeal are vetted on 2.9.2016 and the appeal was finally submitted for filing the LPA in September 2016. Finally, the appeal was filed in the Hon'ble High Court Registry on 05.11.2016."

Evidently, from 27.01.2016 till 18.05.2016 when the

file had been submitted for “further opinion”, there is no explanation as to why this officer did not process the file for four long months and then returned the same on 18.07.2016, implying thereby that the file remained with the Law Officer responsible for giving opinion for as long as six months. Thereafter, also almost four months were consumed in filing the appeal.

The Law Officers, to whom files are submitted for legal opinion, are expected to be well versed with the procedures of law, in particular the urgency that may be lurking behind the matter and the diktats of the Limitation Act. Therefore, we do not find any justification in condoning the lapse of not giving any opinion for six months. Even otherwise, once an opinion has been received, there would hardly be any occasion to go for more opinions till the one conducive to the appellants is received. We are at pains to notice that this is a standard practice of the State to file appeals beyond limitation and then seek condonation of inordinate delay of days together sometimes stretching to almost more than a year. Moreover, no explanation worth the name is offered to condone the delay.

In Office of the Chief Post Master General & ors. v. Living Media India Ltd.& Anr. 2012(2)S.C.T.269 the Hon'ble Supreme Court has observed as under :

“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 bona fide 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. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

We cannot treat the State any differently than a common litigant and even if some leverage is given to the State for procedural delays, it would be absurd to stretch the principle

to condone unexplained delay stretching over 100 days when the prescribed period to file the appeal is merely 30 days. We, therefore, dismiss the appeal on the ground of delay.

Before parting with this order, we direct the counsel appearing for the State of Punjab to furnish the names of the officers who caused this inordinate delay. It is only for this purpose that the matter will be listed on 08.03.2017.

Office is directed to list the case on the date fixed.

(MAHESH GROVER)
JUDGE

01.02.2017
dss

(SNEH PRASHAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No