

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

LPA No.2261 of 2016 (O&M)

Date of Decision :13.02.2017

The Principal Chief Conservator of Forest
and another

....Appellants

Versus

Ram Karan and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

....

Present: Mr.Gagandeep S.Wasu, Addl.AG, Haryana
for the appellants.

....

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned Single Judge dated 29.10.2015 but filed after an inordinate delay of 359 days. The reasons for delay have been given in paras 2 to 4 of the application under Section 5 of the Limitation Act which we consider appropriate to extract herebelow :-

“2. That the certified copy of order dated 29.10.2015 was applied for by the office of Advocate General, Haryana. The Advocate General, Haryana gave his legal opinion that it is not a fit case for filing LPA vide his office memo

no.8546 dated 18.02.2016 but the L.R.Haryana given the opinion that it is a fit case for LPA as per the memo no.20129 dated 17.03.2016.

3. That the Law Secretary-cum-Legal Remembrancer to Govt. of Haryana issued instructions to Ld.Advocate General, Haryana for filing LPA vide his office memo no.20129 dated 17.03.2016.
4. That some time was taken to prepare the LPA along with all other relevant documents and to get vetted from the office of Advocate General, Haryana, Chandigarh. So, delay has been caused due to the administrative reasons and official process and time taken by various authorities in dealing with the file. Thus, the delay of 359 days in filing the accompanying appeal is not intentional and deliberate on the part of the applicants/appellants.”

The aforesaid would reveal that after the judgment was rendered on 29.10.2015, the office of Advocate General, Haryana applied for certified copy and on 18.02.2016 gave legal opinion that the case was not fit for filing LPA but on 17.03.2016 the L.R.Haryana gave contradictory opinion that it was a fit case for

filing LPA, and following the instructions of the Legal Remembrancer to Govt. of Haryana the LPA was prepared and filed on 17.11.2016 after getting the same vetted from the office of Advocate General, Haryana with an inordinate delay of 359 days.

We are at pains to notice that after getting the instructions from the Legal Remembrancer on 17.03 2016 the appellant took months together to prepare and file the present appeal.

All this goes to show complete apathy to the legal process as the file has shuffled from one to another for obtaining legal opinion at a snails pace.

We cannot shut our eyes to such callousness and treat the State or its functionaries differently than a common litigant while dealing with matters of limitation to grant indulgence by overlooking such procedural delays and we would not be unjustified to expect some alertness at the hands of a litigant who wishes to approach this Court in no matter what proceedings.

We are also constrained to observe that there is absolutely no justification manifesting itself from the contents of the application in seeking repeated legal opinions.

The Hon'ble Supreme Court in *Office of the Chief Post Master General & ors. v. Living Media India Ltd. & Anr.*

2012(2)S.C.T.269 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.”

Keeping in view the aforesaid, we are of the view that

the explanation for delay offered by the appellants is not worth acceptance.

Appeal dismissed on the ground of delay.

(MAHESH GROVER)
JUDGE

13.02.2017
dss

(SHEKHER DHAWAN)
JUDGE

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