

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

**LPA No.2328 of 2016 (O&M)  
Date of Decision :17.07.2017**

The Civil Surgeon, Ch.Bansi Lal Civil  
Hospital, Bhiwani

....Appellant

Versus

Smt. Babita and another

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR.JUSTICE RAJ SHEKHAR ATTRI

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

**MAHESH GROVER, J.** (Oral)

**CM No.2609-LPA of 2017**

C.M.is allowed. Additional affidavit is taken on  
record.

**LPA No.2328 of 2016 (O&M)**

On request of learned counsel appearing for the  
appellant, the main appeal is preponed to today.

This appeal has been filed with an inordinate delay of  
306 days with the following explanation contained in the  
application under Section 5 of the Limitation Act :-

“2. That the certified copy of order dated  
19.12.2015 was applied for by the office of  
Advocate General, Haryana, Chandigarh. The  
L.R.Haryana given his opinion that it is a fit case

for LPA as per the memo No.8682-83 dated 08.02.2016.

3. That the Legal Remembrancer and Administrative Secretary to Govt. of Haryana, Law Legislative Department has issued instruction to Ld. Advocate General, Haryana for filing LPA vide his office memo No.8682-83 dated 08.02.2016.
4. That the appellant-department has received letter memo No.8682-83 dated 08.02.2016 on dated 19.05.2016 and thereafter some time was taken to prepare the LPA alongwith 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 306 days in filing the accompanying appeal is not intentional and deliberate on the part of the applicant/appellant.”

After going through the aforesaid explanation furnished in the application for condonation of inordinate delay, this Court found that the same is short of material particulars and

the appellant was directed to file a better affidavit which he has filed today and paras 3 to 5 of the same are extracted herebelow :-

- “3. That the uncertified copy of order dated 19.12.2015 was uploaded from the website of the Hon'ble High Court. After that the Ld.Advocate General, Haryana gave his opinion to Office of SMO, CHC, Miran (Bhiwani) vide his memo no.718 dated 8.1.2016 and opined that the case is not fit for filing appeal and the same opinion of Ld. Advocate General, Haryana vide his Memo No.719 dated 8.1.2016 given to L.R.Haryana. Thereafter, the L.R.Haryana gave his opinion vide memo No.8682-83 dated 08.02.2016 to the Ld.Advocate General, Haryana that it is a fit case for filing LPA.
4. That the Legal Remembrancer and Administrative Secretary to Govt. of Haryana, Law Legislative Department has issued instructions to Ld.Advocate General, Haryana for filing LPA vide his office memo No.8682-83 dated 08.02.2016.
5. That the deponent-department has received letter

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memo No.8682-83 dated 08.02.2016 on 19.05.2016. In the first week of June 2016, the concerned dealing accountant Sh.Kishore Kumar accountant (now retired), Office of CHC Miran (Bhiwani) went to Chandigarh in the office of Ld.Advocate General, Haryana, Chandigarh for getting prepare the affidavits and LPA but the case file of Ld. Advocate General Office was not found on that day and again, in the third week of June 2016, the concerned dealing accountant Sh. Kishore Kumar Accountant again went to Chandigarh in Ld. Advocate General Office, Chandigarh, however, the case file could not be traced out. Upon which, the concerned dealing account was asked to come in next week and accordingly, when the concerned dealing accountant went to Chandigarh then he was provided a specimen copy of LPA and asked him to arrange the related documents from Bhiwani and to get prepare the LPA. Thereafter some time was taken to prepare the LPA along with all other relevant documents and on 16.08.2016, the concerned dealing accountant Sh.Kishore Kumar

went to Chandigarh in A.G. Office along with prepared LPA and other related documents for the purpose. Thereafter, the LPA after vetting was provided by A.G. Office on 22.08.2016 for getting the same signed by the deponent. Thereafter, the concerned dealing accountant, Sh.Kishore Kumar could not make it due to some unavoidable personal reasons and finally, on 25.10.2016, duly signed LPA along with all documents were handed over to the office of Advocate General, Haryana, Chandigarh for filing appeal. 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 306 days in filing the appeal, has occurred as mentioned above.”

We notice from the above that initially the office of the Advocate General, Haryana on 08.01.2016 opined that it was not a fit case for filing LPA but the Legal Remembrancer, Haryana gave his opinion on 08.02.2016 to the Advocate General's office that it was a fit case for filing the appeal and the Legal Remembrancer on 08.02.2016 issued instruction to Advocate

General, Haryana for filing appeal. The Administrative Department received the said instructions on 19.05.2016, after 6 months from the passing of impugned judgment and thereafter its official visited the office of Advocate General, Haryana again and again and took about 4 months to prepare and file the appeal after vetting. Evidently, the file has meandered through various channels without there being any hint of urgency or even offering an insight of the minds of the Law Officers regarding the awareness of the Limitation Act.

The State cannot be treated differently than any other litigant and its lethargy in approaching the court cannot be condoned unless the courts want to face the accusation of treating the State differently than a common litigant and giving a burial to the law of limitation.

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.”

We thus find no reason to condone such an inordinately long delay which has not been explained satisfactorily.

Dismissed.

(MAHESH GROVER)  
JUDGE

17.07.2017  
dss

(RAJ SHEKHAR ATTRI)  
JUDGE

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |