

**LPA no.846 of 2016 (O&M)                      1**

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

**LPA no.846 of 2016 (O&M)**

**Date of Decision : 11.05.2017**

Haryana Urban Development Authority and others

....Appellant(s)

Versus

Balwant Singh and another

...Respondent(s)

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

Present : Mr.Deepak Sabherwal, Advocate for the appellants

Mr. A.S.Tewatia, Advocate for respondents

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

This appeal is directed against the judgment of the learned Single Judge dated 12.8.2015 but filed after an inordinate delay of 197 days. The reasons for delay have been given in paras 2 and 3 of the application under Section 5 of the Limitation Act which we consider appropriate to extract herebelow :-

“2. That the certified copy of the impugned order dated 12.8.2015 of learned Single Judge was applied on 24.8.2015 and was prepared and issued on 26.8.2015. Office of the appellants received information of decision of the writ petition on 10.9.2015, when counsel for the appellants in the writ petition sent the certified copy of order. The order was received in the legal cell, HQ which was

processed on 14.9.2015 when file was put up. The matter was examined by the legal branch on 24.9.2015 and certain information along with documents of CWP, policy, appointment letters etc was sought from Chief Engineer, HUDA. In this regard, letter dated 29.9.2015 was issued. The Chief Engineer, HUDA then took up the matter with the Superintending Engineer, HUDA Circle Panchkula and said office took up the matter with office of the applicant. The matter was examined in all these three offices during this period and after collecting the information and documents, office of the Chief Engineer, HUDA sent the report to legal cell, HQ on 2.2.2016. The legal cell then examined the matter and observed to challenge the order which proposal was approved by the Chief Administrator, HUDA on 24.2.2016. The present counsel was then engaged on 27.2.2016 for which reference was made to the learned Advocate General, Haryana on 24.2.2016. On receipt of file, the matter was processed further and documents were got photostated and record was sent to the engaged counsel vide engagement letter dated 8.3.2016. The counsel after going through the documents sent, however, requested for discussion and sought some documents. Accordingly, the

papers were handed over to the counsel for the appellants on 23.3.2016 for drafting the appeal for approval. Draft of the appeal was prepared on 24.3.2016 and sent for approval. There were holidays from 23.3.2016 to 27.3.2016 and the appeal has been filed without any further delay on opening the Court.

3. That in the aforesaid process, filing of appeal has been delayed for 197 days, which was neither intentional nor mala fide, which deserves to be condoned in the interest of justice.”

The aforesaid would reveal that after the judgment was rendered on 12.8.2015, its certified copy was applied on 24.8.2015 and the same was issued on 26.8.2015. Appellants received information of the decision of the writ petition on 10.9.2015 on receipt of certified copy of the order from counsel for the appellants in writ petition. Then order was sent to legal cell, HQ on 14.9.2015 and some information was sought from the office of Chief Engineer, HUDA on 29.9.2015 which was provided to HQ, legal cell on 2.2.2016. Here the file remained pending for a period of about more than 4 months without any cogent reason. After this, Chief Administrator, HUDA approved the proposal to challenge the order on 24.2.2016 and counsel was engaged on 27.2.2016 and complete papers were supplied to him on 23.3.2016 for filing the instant appeal.

All this goes to show complete apathy to the legal process as the file has shuffled from one place 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.

Hence, instant appeal is dismissed on the ground of delay.

However, 7 days delay in refiling the appeal is condoned.

(Mahesh Grover)  
Judge

(Shekher Dhawan)  
Judge

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|---------------------------|--------|
| 11.05.2017                |        |
| rekha                     |        |
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |