

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

LPA No.1300 of 2017 (O&M)

Date of Decision : 01.09.2017

The Director of Industries and
Commerce, Haryana

....Appellant

Versus

Vidya Sagar and another

....Respondents

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

...

Present: Mr.Vivek Saini, DAG, Haryana.

...

MAHESH GROVER, J. (Oral)

CM-3449-2017 is allowed. Accompanying affidavit is
taken on record.

The main appeal, which is fixed for 10.11.2017, is
preponed to today on the request of learned counsel appearing on
behalf of the State.

The appellant-department has filed this appeal against
the judgment of learned Single Judge dated 18.11.2016 but after a
delay of 156 days.

On 24.07.2017 when this court found the reasons for
delay incorporated in the application under Section 5 of the
Limitation Act not justifiable, learned counsel for the appellant
sought time to file a better affidavit which has been filed today

along with CM-3449-2017. We are still not inclined to accept the explanation given in this affidavit as it itself is contradictory. It is stated that the certified copy of the order dated 18.11.2016 was received by the department on 30.11.2016 whereafter on 13.01.2017 the Accounts Officer of the department recommended soliciting the advice on the future course of action. From where this advice was solicited is not indicated. Thereafter, the Accounts Officer by another advice dated 17.01.2017 recommended that advice of the Advocate General, Haryana and Legal Remembrancer, Haryana be solicited and then the case was sent to the Finance Department to grant relaxation in the case as the relief granted by the Court is not covered by rules/instructions. The file was received back on 19.01.2017 and it is not indicated from where this file was received because the Accounts Officer's note suggested the advice of the Advocate General, Haryana and Legal Remembrancer, Haryana. In the next paragraph No.5 it is averred that on the advice of the Accounts Officer the department vide note dated 25.01.2017 sought the advice of the Finance Department, Haryana. This is in complete contradiction to the advice of the Accounts Officer on 13.01.2017 and 17.01.2017 recommending the matter to the Advocate General, Haryana for future course. Therefore, it is not understandable why the matter was referred to the Finance Department instead of

going to the senior most Law Officer of the State. The Finance Department vide its communication dated 27.02.2017 advised the department to file LPA against the order. The file was received back by the department on 03.03.2017 and then within a period of two weeks upto 20.03.2017 the advice of the Advocate General, Haryana was received recommending the filing of appeal, the draft of which was sent for vetting on 07.04.2017 and submitted to the office of Advocate General on 10.04.2017 only to be returned with a direction to get sanction of the Legal Remembrancer and Administrative Secretary to Government, Haryana, Law and Legislative Department. On 18.04.2017, a request was made to the Legal Remembrancer in terms of the advice of the Advocate General, Haryana, who opined on 27.04.2017 that he was in agreement with the view of the Advocate General, Haryana to file an appeal. On 03.05.2017, sanction was accorded to the Advocate General by the Department for defending the appeal. On 04.05.2017, the draft was submitted once again to the Advocate General for vetting which was returned and a revised draft submitted on 09.05.2017. On 16.05.2017 signed draft was submitted to the Advocate General with a request to file the appeal and finally the appeal was submitted on 25.05.2017.

It is thus abundantly clear that there is no seriousness

attached to the process and knowing fully well that the limitation for filing intra-court appeal is merely 30 days, the concerned department showed no urgency. We cannot treat the Government Departments as novice and stranger to the concepts of law as they are well equipped with Law Officers as also the office of Advocate General. We also cannot treat the State or its departments any differently than an ordinary litigant. Rather, an ordinary litigant has to be given some indulgence in terms of relaxation but the State with numerous human resources and legal acumen at their command cannot escape the consequences of this brazen and laxity to the process.

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 appellant is not worth acceptance.

Appeal dismissed on the ground of delay.

(MAHESH GROVER)
JUDGE

01.09.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE