

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

LPA No.428 of 2017 (O&M)

Date of Decision :12.07.2017

The State of Haryana and others

....Appellants

Versus

Prahlad and others

....Respondents

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

....

Present: Mr.Gagandeep S.Wasu, Advocate
for the appellants.

....

MAHESH GROVER, J. (Oral)

This appeal has been filed with an inordinate delay of 357 days with the following explanation contained in the application under Section 5 of the Limitation Act :-

- “3. That certified copy was applied and thereafter file was put up before the Ld. Law Officer for opinion. Ld. Law Officer on 08.04.2016 tendered its opinion on 10.06.2016 and file was marked to Ld. Advocate General, Haryana who agreed with the opinion on 15.06.2016.
4. That Ld. Advocate General, Haryana vide letter Memo No.21241-43 dated 28/06/2016 opined that it is not a fit case for filing LPA.
5. That Ld. Legal Remembrancer, Haryana vide

letter Endst.Memo.No.36145/Co.3170/11/2013
dated 05.09.2016 has opined that it is not a fit case
for filing L.P.A.

6. That the judgment dated 12/02/2016 passed by the Hon'ble Single Judge is against the service rules applicable to the respondents as well as contrary to the relevant regularization policies. Therefore, the Director General of Police, Haryana, Panchkula vide letter No.18682/Acctts-2 dated 20.12.2016 sent a request to the Additional Chief Secretary to Govt. of Haryana, Home Department, Chandigarh to issue necessary instruction to Advocate General, Haryana for filing of L.P.A.
7. That the Additional Chief Secretary to Govt. of Haryana, Home Department, Chandigarh vide memo No.29/58/2016-3HGI dated 26-12-2016 sent a sanction to Advocate General, Haryana for filing L.P.A.
8. That the instructions issued from Additional Chief Secretary to Govt. of Haryana, Home Department, Chandigarh received in this office on 29-12-2016 thereafter the office of Director General of Police, Haryana was approached alongwith relevant records for the preparation/vetting of appeal.

9. The case being policy matter was considered at various levels at Police Headquarters.
10. That the office of Ld. Advocate General, Haryana was approached immediately along with relevant record of the case for the preparation/vetting of grounds of appeal on 17.02.2017 which was vetted on 20.02.2017. Thereafter complete paper book of LPA submitted in the office of Advocate General, Haryana for filing the same in the registry of Hon'ble High Court.”

We notice from the above that the initial delay was caused in the office of the Advocate General, Haryana itself. For the first time the case was put up before the Law Officer who conducted the case on 08.04.2016 and his opinion was delivered on 10.06.2016. Thereafter the Legal Remembrancer also concurred with the opinion of the Law Officer on 05.09.2016 indicating the delay of 3 months in his office. It is thereafter that the government woke up to the situation to send a request to the Addl.Chief Secretary to Govt. of Haryana, Home Department, Chandigarh on 20.12.2016 resulting in a request to the Advocate General, Haryana on 17.02.2017 for filing the appeal which was vetted on 20.02.2017 and filed thereafter. Evidently, the file has meandered through various channels without there being any hint or 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.

It has been stated that the matter is of great importance and the State would suffer acute losses. We are not enamoured of this argument. If the State suffers on account of its laxity it has itself to blame and none others and the courts cannot rescue it.

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

12.07.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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