

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

LPA No.521 of 2017 (O&M)

Date of Decision :12.07.2017

State of Haryana and others

....Appellants

Versus

Sucheta Memorial School, Gurgaon

....Respondent

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

....

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

....

MAHESH GROVER, J. (Oral)

This appeal has been filed with an inordinate delay of 774 days with the following explanation contained in the application under Section 5 of the Limitation Act :-

- “2. That the Hon'ble High Court vide its order dated 10.12.2014 had allowed in CWP No.12086 of 2013 titled as Sucheta Memorial School, Gurgaon Versus State of Haryana and others.
3. That the Ld. A.G., as well as Ld. L.R. Haryana had opined that the case is not fit for filing LPA. Thereafter, for compliance of the aforesaid directions of the Hon'ble Single Bench, the advice of Legal Cell of the Directorate was

obtained on 14.01.2015 and it was advised by them to file RA against the order dated 10.12.2014 before the Ld. Single Judge.

4. That thereafter, the matter was sent to the Govt. for according special sanction under Rule 20.4 of the Law Department Manual for filing RA but after discussion, the then Principal Secretary School Education Haryana, on 04.02.2015, directed that LPA may be filed against the order dated 10.12.2014 instead of RA.
5. That, in compliance of the direction of the then Principal Secretary School Education Haryana, that the matter was again refer to the Govt. for special sanction for filing LPA. While acceding the request of the applicant Department, the Ld. L.R.Haryana, vide order dated 15.06.2015, issued necessary instruction to Ld. A.G.Haryana for filing LPA.
6. That thereafter, the process of filing LPA was underway, the matter was again considered by the Department on 30.06.2015 and it was decided that the school was in existence before 31.03.2007 and if that is the case, there appears

little justification was filing for LPA in the matter especially when the said school has been meeting out the relaxed norms as are available to the existing schools of up-gradation.

7. That thereafter, the matter was again referred to the then Principal Secretary School Education Haryana on 10.07.2015 to review the proposal of filing LPA and to conclude the case of the petitioner school by acceding to the request of the school for up-gradation for Senior Secondary level. But after discussion, it came to the notice that the land to the school has been allotted by the HUDA for opening a Nursery School only so the petitioner cannot be granted recognition unless the HUDA consents the upper level of the school that of Nursery level as mentioned in allotment letter. Accordingly, on these grounds, the claim of the petitioner school was rejected by passing a speaking order dated 11.09.2015.
8. That after the passage of order dated 11.09.2015 the petitioner did not turn up and never submitted any representation to the Department and ultimately filed COCP No.3247 of 2015 in

the month of 15.12.2015 in the Hon'ble High Court. The matter was again examined and considered by the Department on 12.03.2016 and it was decided to file RA against the order dated 10.12.2014 before the Ld.Single Judge after obtaining necessary sanction from the Govt. The Govt. accorded the sanction for filing RA vide order dated 04.04.2016. The Ld.Haryana was requested to issue necessary instructions for filing RA which were issued by their office vide order dated 22.04.2016.

9. That after the issuance of instruction of Ld. L.R.Haryana, RA No.139 of 2016 was filed by the State. The RA was finally listed for hearing on 09.05.2016, on that day, the Ld. Single Judge was pleased dismiss the RA filed by the State.
10. That the Ld. L.R.Haryana vide their letter dated 28.06.2016 agreed with the opinion of Ld.A.G. Haryana regarding the fact that the case is not fit for filing LPA. This letter was received in the Education Department on 12.07.2016. Thereafter, the Department decided to file the LPA against the order passed in RA No.139 of

2016. Therefore, sanction of the Govt. was accorded under para 20.4(3) of the LDM on 15.09.2016 for filing LPA, in pursuance of which Ld. A.G. Haryana, vide letter dated 15.09.2016, was requested to file and defend LPA on behalf of the State.

11. That thereafter draft LPA was prepared & sent to the office of Ld. Advocate General for vetting on 21.12.2016, which was vetted on 22.12.2016. Thereafter, complete paper book was submitted in the office of Advocate General Haryana for filing in the registry.”

We notice from the above that initially the office of the Advocate General, Haryana and the Legal Remembrance, Haryana opined that it was not a fit case for filing LPA but the Legal Cell of the Directorate office advised to file Review Application against the impugned judgment. Thereafter the matter was sent to the Govt. for according special sanction in this regard, and after discussion the Principal Secretary School Education, Haryana directed that LPA may be filed instead of Review Application. Thereafter, the matter was again referred to the Govt. for according special sanction for filing LPA and acceding to the request of the Administrative Department, the

Legal Remembrancer, Haryana issued instructions to Advocate General Haryana on 15.06.2015 for filing LPA. The department examined the matter again and again and on 12.03.2016 it was decided to file a Review Application against the impugned order and ultimately Review Application No.139 of 2016 was filed which resulted in dismissal. On 28.06.2016 the Legal Remembrancer Haryana agreed with the opinion of the Advocate General Haryana that the case was not fit for filing LPA and even then the department decided to file the LPA, and on 15.09.2016 the Advocate General Haryana was requested to file the LPA which was filed after vetting on 22.12.2016. 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

12.07.2017
dss

(RAJ SHEKHAR ATTRI)
JUDGE

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